

BILL NO. 21-20

ORDINANCE NO. 4.558

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF GLADSTONE, MISSOURI, TO ESTABLISH THE POLICE DEPARTMENT, THE FIRE DEPARTMENT, AND CREATE THE POSITIONS OF CHIEF OF POLICE AND FIRE CHIEF.

WHEREAS, the City currently has a Department of Public Safety, in which there are contained both the police and fire divisions; and

WHEREAS, the Director of Public Safety currently leads the Department of Public Safety; and

WHEREAS, the City desires to dissolve the position of the Director of Public Safety, establish the positions of the Chief of Police and the Fire Chief; and separate the Department of Public Safety to create the Gladstone Police Department and the Gladstone Fire Department; and

WHEREAS, to effectuate such changes, it is necessary to implement numerous amendments to the Code of Ordinances; and

WHEREAS, the amendments to the Code of Ordinances are reflected in a document entitled “Exhibit A, City of Gladstone, Missouri, Public Safety Department Amendment 2021,” on file and in the City Clerk’s office; and

WHEREAS, the City has previously enacted various other amendments to the Code of Ordinances not reflected in Exhibit A, referred to above; and

WHEREAS, the necessary changes regarding the Public Safety Department to those certain previous amendments not contained in Exhibit A, or not otherwise set forth herein, are reflected in a document entitled “Exhibit B, Public Safety Department Amendment 2021, Prior Amendments,” on file and in the City Clerk’s office; and

WHEREAS, the City Council desires to amend the Code to dissolve the position of the Director of Public Safety; establish the positions of the Chief of Police and the Fire Chief; and separate the Public Safety Department to create the Police Department and the Fire Department.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI AS FOLLOWS:

Section 1. That the Code of Ordinances of the City of Gladstone, Missouri, is hereby amended to read as set forth in the document entitled “Exhibit A, City of Gladstone, Missouri, Public Safety Department Code of Ordinances Amendment 2021,” on file and in the City Clerk’s office.

Section 2. That the various amendments to the Code of Ordinances not reflected in Exhibit A, including those amendments enacted in Ordinance Nos. 4.513, 4.516, 4.522, 4.530, 4.531, 4.541, 4.549, 4.553, and 4.554 are not modified, amended or effected in any way except as otherwise set forth in Sections 3 & 4 herein.

Section 3. That certain amendments to the Code of Ordinances enacted but not yet reflected in Exhibit A (as described in Section 2), contain provisions that require amendment to reflect the changes sought herein, and those certain amendments are hereby amended to read as set forth in the document entitled “Exhibit B, Public Safety Department Amendment 2021, Prior Amendments,” on file and in the City Clerk’s office.

Section 4. That Section 5.110.3900 of the Code of Ordinances was amended on May 26, 2020, in Ordinance No. 4.516, and such amendment is not reflected in Exhibit A, and that Section 5.110.3900 of the Code of Ordinances of the City of Gladstone, Missouri is hereby amended to read as follows:

Section 5.110.3900. – Employee Permits.

- (a) All persons employed in the retail sale by the drink of alcoholic beverages or packaged alcoholic beverages must procure a permit to do so. To procure such a permit, each applicant shall submit an “Intent to Hire” form, must be fingerprinted by the Chief of Police or present a valid, Missouri state-issued identification with a Missouri Criminal History report dated within the last 30 days of application, submit to a photograph, complete an application form, and prove himself/herself to be a person of good moral character. On application, each applicant shall pay the sum of \$15.00 and shall be given a temporary card which will be good for a period not less than 30 days and may be extended to cover the period of time necessary for detailed investigation. On or before the expiration date of such temporary card, if the applicant meets the applicable requirements of the city and state, then such applicant will be given a permit card valid for three years from the date of the original application.
- (b) Upon the expiration of the permit card, the applicant may procure a new permit card in the same manner as before except no fingerprints will be required when and if a set of classified fingerprints of the applicant are in the files of the Chief of Police. The applicant must produce a valid, Missouri state-issued identification with a Missouri Criminal History report dated within the last 30 days of application and submit to a photograph. All permit cards shall bear a description of the applicant, identifying information (Missouri identification number, date of birth, and address) and photograph and shall be laminated to prevent alteration.
- (c) If any permitted employee shall be found guilty of violating or contributing to the violation of any of the provisions of this chapter, or is convicted of any crime, such employee’s permit card shall be subject to suspension or revocation; provided such

permitted employee shall be given a hearing in the same manner as other license holders under this chapter.

- (d) It shall be unlawful for any licensee of any retail establishment to have in such licensee's employ, for the purpose of selling or assisting in the sale or delivery of alcoholic beverages, any person who does not have a permit card.
- (e) Individuals in possession of a valid permit to dispense alcohol may utilize the permit to sell alcohol by the drink or packaged alcohol at a different employer provided the employer has a valid license to sell alcohol by the drink or packaged alcohol, the individual submits the required "Intent to Hire" form from the new employer with a Missouri Criminal History report dated within the last 30 days of submission to the Chief of Police. No additional fee will be required.

Section 5. That this Ordinance shall be in full force and effect from and after the date of its passage and approval.

Section 6. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

INTRODUCED, PASSED, SIGNED, AND MADE EFFECTIVE BY THE CITY COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, ON THIS 14TH DAY OF JUNE, 2021.

R.D. Mallams, Mayor

ATTEST:

Ruth E. Bocchino, City Clerk

First Reading: June 14, 2021

Second Reading: June 14, 2021



Request for Council Action

RES ☐ # City Clerk Only

BILL ☒ # City Clerk Only

ORD # City Clerk Only

Date: 6/8/2021

Department: General Administration

Meeting Date Requested: 6/14/2021

Public Hearing: Yes ☐ Date: [Click here to enter a date.](#)

Subject: An Ordinance amending the code of Ordinances of the City of Gladstone, Missouri to establish the Police Department, the Fire Department, and to create the positions of Chief of Police and Fire Chief.

Background: In 1968 the police and fire departments merged into the Public Safety Department under the leadership of the Director of Public Safety. At the time of the merger of the Police and Fire departments, the volunteer Fire Department had five drivers and a Chief, and the Police Department had fourteen Police Officers, a Chief, along with Reserve Police Officers. Following the consolidation of the Departments, all personnel became full-time and were cross-trained in police and fire services. In approximately 2000, the city realized that both emergency functions were becoming too specialized and they began filling vacancies within the Public Safety Department with personnel who were trained exclusively in the fields of Law Enforcement or Fire / Emergency Medical Services. With the recent retirement of the Public Safety Director, the City has determined the time is appropriate to formally split the Public Safety Department into separate Police and Fire Departments, each with their own Chief. The current Fire/EMS Division Chief will assume the title of Fire Chief and the City has contracted with Baker Tilly to conduct a national search for a qualified Police Chief. To formalize this new organizational structure, changes have to be made in the City Ordinances, which primarily remove the Public Safety and Public Safety Director references and replace them with Police Department, Fire Department, Chief of Police and Fire Chief respectively. The proposed Ordinance represents the necessary changes to the City Code and will formally allow the City to establish a separate Police and Fire Department.

Budget Discussion: Funds are budgeted in the amount of \$ 0 from the N/A Fund. Ongoing costs are estimated to be \$ 0 annually. Previous years' funding was \$0

Public/Board/Staff Input: Staff recommends approval by the City Council

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk and Vendor

Bob Baer
Department Director/Administrator

City Attorney

City Manager

Title I GOVERNMENT

CHAPTER 100. GENERAL PROVISIONS

Sec. 1.100.010. How Code designated and cited.

The ordinances embraced in this and the following titles, chapters and sections shall constitute and be designated the "Code of Ordinances, City of Gladstone, Missouri," and may be so cited. Such ordinances may also be cited as the "Gladstone City Code."

(Code 1974, § 1-1)

Sec. 1.100.020. Definitions and rules of construction.

In the construction of this Code and of all other ordinances of the city, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section or ordinance, or unless inconsistent with the manifest intent of the city council, or unless the context clearly requires otherwise. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning. The rules of construction set forth in this section shall not be applied to any section or ordinance which shall contain any express provision excluding such construction, or when the subject matter or context of such section or ordinance may be repugnant thereto.

Acts by agents. When a section requires an act to be done which may, by law, as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent or deputy.

State law reference(s)—Similar provisions, RSMo 1.060.

City. The words "the city" or "this city" shall mean the City of Gladstone, Missouri.

Code or this Code. The term "Code" or "this Code" shall mean the Code of Ordinances, City of Gladstone, Missouri.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Sunday or a legal holiday, that shall be excluded.

State law reference(s)—Similar provisions, RSMo 1.040.

Council or city council. The words "the council" or "city council" shall mean the city council of Gladstone, Missouri.

County. The words "the county" or "this county" shall mean the County of Clay, State of Missouri.

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

State law reference(s)—Similar provisions, RSMo 1.030(2).

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

State law reference(s)—Similar provisions, RSMo 1.050.

Month. The word "month" shall mean a calendar month, and shall be deemed to be a period of 30 days, unless otherwise provided.

State law reference(s)—Similar provisions, RSMo 1.020(9).

Officer, employee, department, board, commission or agency. Whenever a reference to an officer, employee, department, board, commission or agency appears, it shall be construed as if followed by the words "of the City of Gladstone, Missouri."

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

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

Person. The word "person" may extend to and be applied to bodies politic and corporate, and to partnerships and other unincorporated associations.

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

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

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

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

State law reference(s)—Similar provisions, RSMo 1.020(14).

Property. The word "property" shall include real and personal property.

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

Public way. The words "public way" shall include any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

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

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

Reasonable time. In all cases where an act is required to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty, or compliance with such notice.

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

Shall, may. The word "shall" is mandatory, and the word "may" is permissive.

Sidewalk. The word "sidewalk" shall mean that portion of the street between the curbline and the adjacent property line which is intended for the use of pedestrians.

Signature, written, in writing, writing word for word. The words "signature," "written," "in writing" and "writing word for word" shall 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 such person's mark, is intended.

State law reference(s)—Similar provisions, RSMo 1.020(21).

Singular, plural. When any subject matter, party or person is described or referred to by words importing the singular number, several matters and persons are included. When any words importing the plural are used in describing or referring to any matter, parties or persons, any single matter, party or person is included.

State law reference(s)—Similar provisions, RSMo 1.030(2).

State. The words "the state" or "this state" shall mean the State of Missouri.

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

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

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

Week. The word "week" shall be construed to mean seven days; but publication in a newspaper of any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one insertion in each week, unless specifically stated to be for each day of the week or for more than one day in each week.

Year. The word "year" shall mean a calendar year, unless otherwise expressed, and the word "year" shall be equivalent to the words "year of our Lord."

State law reference(s)—Similar provisions, RSMo 1.020(10).

(Code 1974, § 1-2)

Sec. 1.100.030. Reference to chapters, etc.; conflicts.

In addition to the rules of construction specified in section 1.100.020, the following rules shall be observed in the construction of this Code and of all other ordinances of the city:

- (1) All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.
- (2) If the provisions of different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of such chapter.
- (3) No provision of this Code shall apply to any circumstance in which such application shall be unlawful under superseding federal or state law and furthermore, if any section, subsection, sentence, clause, phrase, or portion of this Code is now or in the future superseded or preempted by state or federal law or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.

(Code 1974, § 1-7; Ord. No. 4.434 , § 2, 6-4-2018)

Sec. 1.100.040. 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 of such subsections, sections, chapters, articles or divisions, including the catchlines or other headings, are amended or reenacted.

(Code 1974, § 1-3)

Sec. 1.100.050. 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 adoption of the "Code of Ordinances, City of Gladstone, Missouri," shall be considered as a continuation thereof and not as new enactments.

(Code 1974, § 1-3)

Sec. 1.100.060. Common seal.

- (a) There shall be a common seal of the city.
- (b) The device of the common seal shall be in a circle form. Inscribed thereon shall be the words "City of Gladstone," following in a circular form the circumference; and the word "seal" on the face of the disc.
- (c) The city clerk shall be the custodian of the common seal.

(Code 1974, § 1-10)

State law reference(s)—Authority of city to have a common seal, RSMo 77.010.

Sec. 1.100.070. History notes, editor's notes, state law and cross references.

The history notes appearing in parentheses after each section and the editor's notes and state law and cross reference notes 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.

Sec. 1.100.080. Amendments to Code; effect of new ordinances; amendatory language.

- (a) All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. In the case of repealed chapters, sections or subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the Code by the omission thereof from reprinted pages affected thereby. The subsequent ordinances as numbered and printed or as omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the city council.
- (b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code. The following language may be used to amend an existing section of the Code: "Section _____ of the Code of Ordinances, City of Gladstone, Missouri, is hereby amended to read as follows:...." The new provisions may then be set out in full.
- (c) If a new section not then existing in the Code is to be added, the following language may be used: "The Code of Ordinances, City of Gladstone, Missouri, is hereby amended by adding a section (or article or chapter) to be numbered _____, which section (or article or chapter) reads as follows:...." The provisions may then be set out in full.

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- (d) All sections, articles, chapters or provisions of this Code desired to be repealed may be specifically repealed by section, article or chapter number, as the case may be. The following language may be used to repeal an existing section (or article or chapter): "The Code of Ordinances, City of Gladstone, Missouri, is hereby amended by repealing section (or article or chapter) _____ in its entirety."
 - (e) Two official copies of this Code shall be maintained by the city clerk so that all amendments thereto and all general ordinances thereafter passed may be posted and inserted in their proper places within the Code.

Sec. 1.100.090. Supplementation of Code.

- (a) Supplements to this Code shall be prepared and printed from time to time. A supplement to the Code shall include all substantive parts of permanent and general ordinances passed by the city council 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 that 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).
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections or the alphabetical arrangement of new chapters inserted into the Code. 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.

Sec. 1.100.100. Severability.

The provisions of every section, paragraph, sentence, clause and phrase of this Code and every ordinance enacted by the city council shall be severable. If any such provision is found by a court of competent jurisdiction to be unlawful, the remaining provisions are valid unless the court finds the valid provisions are so essentially and inseparably connected with, and so dependent upon, the invalid provision that it cannot be presumed the council would have enacted the valid provisions without the void one; or unless the court finds that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the council's intent.

(Code 1974, § 1-4)

State law reference(s)—Similar provisions, RSMo 1.140.

Sec. 1.100.110. Repeal of ordinance not to affect liabilities, etc.

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

(Code 1974, § 1-5)

Sec. 1.100.120. Effect of repeal.

When any ordinance repealing a former ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided.

(Code 1974, § 1-6)

State law reference(s)—Similar provisions, RSMo 1.150.

Sec. 1.100.130. Effective dates of ordinances.

All ordinances passed by the city council, except when otherwise specifically provided, shall take effect and be in force from and after their being duly signed.

(Code 1974, § 1-8)

Sec. 1.100.140. General penalty.

- (a) Except as hereinafter provided, whenever in this Code or any other ordinance of the city or in any rule, regulation or order promulgated pursuant to such Code or other ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or in such other city ordinance, rule, regulation or order the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance of the city or of any rule, regulation or order promulgated pursuant to such Code or other city ordinance shall be punished by a fine not exceeding \$500.00, or by imprisonment for a period of not exceeding 90 days, or by both such fine and imprisonment.
- (b) Whenever any provision of the Revised Statutes of Missouri or other statute of the state limits the authority of the city to punish the violation of any particular provision of this Code or other city ordinance or rule, regulation or order promulgated pursuant thereto to a fine of less amount than that provided in this section or imprisonment for a shorter term than that provided in this section, then the violation of such particular provision of this Code or other city ordinance, rule, regulation or order shall be punished by the imposition of not more than the maximum fine or imprisonment so authorized or by both such fine and imprisonment.
- (c) Each day any violation of this Code or any other city ordinance or rule, regulation or order promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided.
- (d) *Minor traffic violations.*

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- (1) Minor traffic violations are defined in RSMo 479.350 and include traffic ordinance violations that do not involve an accident or injury, that do not involve the operation of a commercial vehicle, and for which no points are assessed by the department of revenue or the department of revenue is authorized to assess one to four points to a person's driving record upon conviction. Minor traffic violations include amended charges for any minor traffic violation. The definition of minor traffic violations does not include violations for exceeding the speed limit by more than 19 miles per hour or a violation occurring with a construction zone or a school zone.
 - (2) *Fines.* A person convicted of or who pled guilty to a minor traffic violation shall not be assessed a fine, if combined with the amount of court costs, totaling in excess of \$225.00 for a minor traffic violation.

(e) *Municipal ordinance violations.*

- (1) Municipal ordinance violations are defined in RSMo 479.350 and include violations of title II, chapter 110, nuisances, and title IX, building and construction ordinance, including, but not limited to, the penalties for violations of sections 2.110.030—2.110.090 and the penalties authorized by section 2.110.100, section 9.100.050(b) and section 9.200.060(2).
- (2) *Fines.* A person, general agent, occupant, lessee, or any other entity convicted of or that pled guilty to a municipal ordinance violation shall not be assessed a fine, if combined with the amount of court costs, for violations committed within a 12-month period beginning with the first violation totaling in excess of: \$200.00 for the first violation, \$275.00 for the second violation, \$350.00 for the third violation, and \$450.00 for the fourth and any subsequent violations.

(Code 1974, § 1-9; Ord. No. 4.364 , § 1, 8-22-2016)

State law reference(s)—Authority of third class cities to prescribe penalties, RSMo 77.590.

Sec. 1.100.150. Ordinances saved from repeal generally.

Nothing contained in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (2) Any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this Code.
- (3) Any ordinance or resolution promising or guaranteeing the payment of money to or on behalf of the city or authorizing the issue of any bonds of the city or any evidence of the city's indebtedness or any contract or obligation assumed by the city.
- (4) Any ordinance levying taxes, not in conflict or inconsistent with the provisions of this Code.
- (5) Any right or franchise conferred by ordinance or resolution of the city council on any person or corporation.
- (6) Any ordinance adopted for purposes which have been consummated.
- (7) Any ordinance which is temporary, although general in effect, or special, although permanent in effect.
- (8) Any ordinance relating to the compensation of city officers or employees.
- (9) Any ordinance annexing territory to the city.
- (10) Any ordinance naming, renaming, opening, accepting or vacating streets or alleys in the city.
- (11) Any ordinance relating to approval of any plat.

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- (12) Any ordinance maintaining at the then current rate any occupation license tax imposed on gas companies, in accordance with RSMo 393.275.
 - (13) Ordinance No. 1.98, relative to elections.
 - (14) Any ordinance adopted on final reading and passage after September 12, 2005.

Sec. 1.100.160. Enforcement; attorney's fees.

The city shall be entitled to enforce any provision of the Code through all remedies lawfully available, and any person determined to have violated the terms of the Code shall further be liable to pay the city's costs and attorney's fees in enforcing such Code provisions. Additionally, any user of city services, rights-of-way, or other city facilities or property, shall as a condition of such use or continued use, to the full extent permissible by law, be liable to pay the city's costs and attorney's fees incurred in enforcing any lawful requirement applicable to such use, whether arising in contract, statute, ordinance, or other enforceable duty as to such use.

(Ord. No. 4.434 , § 3, 6-4-2018)

Sec. 1.100.170. Violation; remedies, unauthorized holdover.

Any person who fails to hold and maintain a current and valid agreement with the city to use the city's land or facilities has no right to holdover and shall be subject to the provisions and city remedies of this section in addition to all other remedies and penalties as may otherwise exist in applicable law. Any claimed holdover right shall be deemed void and terminated upon expiration of a valid use agreement unless the city has affirmatively in writing authorized the holdover, or as otherwise may be required by law. Every person during any period without a valid agreement shall, during any period of unauthorized use: (1) indemnify the city from any liability arising from the use, (2) pay any damages and costs of the city from such use, including attorney fees incurred in enforcing this [section], and (3) make payment of compensation in the amount of two times the monthly rent of the last expired agreement, if a holdover, and two times the market rental value reasonably determined by the city (but in no event less than two times the rate required by ordinance), if no prior agreement, until a valid agreement is executed with the city or the attachments and/or use is fully removed, the property restored, and all obligations to the city satisfied. Unless otherwise provided in an unexpired agreement, such person shall also be responsible for interest on all amounts owed at a rate of one and one half percent per month. Nothing in these provisions, remedies, or compensation requirements, or acceptance or enforcement thereof by the city, shall be deemed to accept or authorize any use of public property without a required agreement, after the expiration of such agreement, or otherwise in violation of applicable requirements.

(Ord. No. 4.434 , § 3, 6-4-2018)

CHAPTER 105. ADMINISTRATION¹

¹Cross reference(s)—Administration of fair housing regulations, § 3.140.050Cross reference(s)—; utilities and taxes, title VI; administration of land and development regulations, § 8.100.010Cross reference(s)—.

ARTICLE 1. IN GENERAL

Sec. 1.105.010. Petty cash funds.

The city budget may provide, from time to time, for the establishment from the general fund of the city of various petty cash funds, in such amounts as may be established by such budget.

(Code 1974, § 2-1)

Sec. 1.105.020. Election of "80 and out" option.

The city council hereby elects the alternate retirement eligibility option "80 and Out" in accordance with the provisions of RSMo 70.646.

(Ord. No. 3.389, § 1, 6-13-1994)

Sec. 1.105.030. Election of method of determining employees' final average salary under state's local government employees retirement system.

- (a) The city, as an employer under the state's local government employees' retirement system, hereby elects the following:
 - (1) To adopt a change in the contribution amount required from covered employees, changing to a requirement of no contributions from covered employees in accordance with RSMo 70.705 and 70.730.
 - (2) Contributions to the system shall be made on behalf of the employee by the city after the date an employee has completed sufficient employment for six months of credited service and the city's contribution will be calculated in accordance with RSMo 70.730.
- (b) The "final average salary" shall be the monthly average of the compensation paid an employee during the period of 60 consecutive months of credited service producing the highest monthly average within 120 consecutive months of credited service immediately preceding the termination date of employment.
- (c) To use Benefit Program LT-6 (two percent) in accordance with RSMo 70.655.
- (d) All persons whose employment with the city commenced prior to July 1, 2015, may retire under the "80 and Out" option if years of attained age and years of credited service in force total 80 or more and the employee has five or more years of credited service in force.
- (e) All persons whose employment with the city commenced on or after July 1, 2015, may retire with a minimum service retirement age of 60 if the employee is neither a police officer or EMS/firefighter and at age 55 if the employee is a police officer or EMS/firefighter.
- (f) The city clerk shall certify this election to the state local government employees retirement system within ten days hereof. Such election shall be effective on November 1, 2019.

(Ord. No. 3.710, §§ 1—4, 6-28-1999; Ord. No. 4.311, 5-26-2015; Ord. No. 4.488, 8-26-2019)

Sec. 1.105.040. Reserved.

Editor's note(s)—Ord. No. 4.095, § 1, adopted Feb. 23, 2009, repealed § 1.105.040 Editor's note(s)— which pertained to smoke-free areas and derived from Ord. No. 3.208, §§ 1—5, adopted June 28, 1993.

ARTICLE 2. CITY COUNCIL

Sec. 1.105.050. Salary and duties generally.

- (a) *Salary.* The councilmembers of the city shall be paid a salary of \$100.00 per year.
- (b) *Duties.* The duties of the councilmembers of the city are as set forth in state law.

(Code 1974, § 2-2)

State law reference(s)—Powers of council generally, RSMo 77.260, 78.570; salary, RSMo 78.590.

Sec. 1.105.060. Regular meetings.

The city council shall hold regular meetings on the second and fourth Mondays of each month, at 7:30 p.m.; provided that when the day fixed for any regular meeting of the council falls upon a day designated by law as a legal or national holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday, unless otherwise provided by council.

(Code 1974, § 2-3)

State law reference(s)—Regular meetings of city council, RSMo 78.590.

Sec. 1.105.070. Special meetings.

The mayor shall call special meetings of the council whenever, in the mayor's opinion, the public business may require it, or at the express written request of any two members of the council.

(Code 1974, § 2-4)

State law reference(s)—Calling of special meetings of city council, RSMo 78.590.

Sec. 1.105.075. Public notice of public meetings; opportunity to be heard.

- (a) Public notice of all regular and special public meetings conducted by the city council or any other board or commission of the city, except for emergency meetings, and except for meetings held pursuant to paragraph (b) of this section, shall be given by posting the agenda for such meeting at City Hall in a place accessible to the general public at least 24 hours prior to convening the meeting.
- (b) Notwithstanding the requirements of paragraph (a), above, public notice of any public meeting where a vote of the governing body is required to implement a tax increase, or with respect to a retail development project when the governing body votes to utilize the power of eminent domain, create a transportation development district or a community improvement district, or approve a redevelopment plan that pledges public funds as financing for the project or plan, except for the setting of annual property tax rates, shall be posted at least four days prior to convening the meeting, exclusive of weekends and holidays when City Hall is closed.

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- (c) No vote shall occur concerning the subjects listed in paragraph (b), above, until after a public meeting at which parties in interest and citizens shall have an opportunity to be heard.

(Ord. No. 4.160, § 1, 8-9-2010)

Sec. 1.105.080. Agenda; consent agenda; procedures.

- (a) All reports, ordinances, resolutions, contract documents or other matters to be submitted to the council shall, at least three full business days prior to each council meeting, be delivered to the city clerk, whereupon the city clerk shall immediately arrange a list of such matters according to the order of business and furnish each member of the council, the city manager and the city counselor with a copy of the list prior to the council meeting and as far in advance of the meeting as time for preparation will permit.
- (b) In preparing the agenda for the council meeting as provided in subsection (a) of this section, the city clerk may designate certain routine items listed on the agenda to be included as part of a consent agenda to be considered in the order of business. The items designated for consideration as part of the consent agenda shall be identified with an asterisk (*) located immediately before the item on the agenda. Items designated for consideration as part of the consent agenda may include approval of building plans, approval and renewal of liquor licenses, adoption of resolutions and approval of reports. When the consent agenda is considered in the order of business, the city clerk shall read aloud the items included in the consent agenda. After the consent agenda is read, members of the public and city staff shall be given an opportunity to request that items be removed from the consent agenda for public debate. If, after such opportunity, any member of the city council shall request that an item be removed from the consent agenda, such item shall be removed and shall be considered by the city council according to its designation in the order of business. All items not removed from the consent agenda shall be considered by the city council without discussion upon a motion by any member of the city council, duly seconded, to approve the consent agenda as published or as modified. Upon a unanimous vote of the members of city council in favor of such motion, each item on the consent agenda shall be deemed to have been approved by the council. Action on the consent agenda shall be noted by the city clerk in the minutes of the meeting of the city council. In addition, the city clerk shall record individually each action passed in the consent agenda in the order that it appears on the agenda and shall record the number of "yeas" and "nays" for each item as if passed separately.

(Code 1974, § 2-5)

Sec. 1.105.090. Mayor to be presiding officer; election of mayor and mayor pro tem; duties of presiding officer generally.

The presiding officer of the council shall be the mayor or mayor pro tem, in the absence of the mayor, who shall be elected annually at the first meeting of April of each year, by the members from their membership. The presiding officer shall preserve strict order and decorum at all regular and special meetings of the council. The presiding officer shall state every question coming before the council, announce the decision of the council on all subjects and decide all questions of order, subject, however, to an appeal to the council, in which event a majority vote of the council shall govern and conclusively determine such question of order. The presiding officer shall immediately sign all ordinances and resolutions adopted by the council during the presiding officer's presence. In the event of the absence of the mayor, the mayor pro tem shall sign ordinances or resolutions as then adopted.

(Code 1974, § 2-6)

State law reference(s)—Presiding officer, RSMo 77.250; election, duties, etc., of president pro tempore, RSMo 77.070.

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Sec. 1.105.100. Presiding officer to call council to order.

The mayor shall take the chair precisely at the hour appointed for the meeting and shall immediately call the council to order.

(Code 1974, § 2-7)

Sec. 1.105.110. Roll call.

Before proceeding with the business of the council, the city clerk or the city clerk's deputy shall call the roll of members, and the names of those present shall be entered in the minutes.

(Code 1974, § 2-8)

Sec. 1.105.120. Quorum.

Three members of the council shall constitute a quorum at any regular or special meeting of the council. No action shall be valid unless at least three, or as otherwise provided in this Code or by state law, shall vote in favor of such action.

(Code 1974, § 2-9)

State law reference(s)—Similar provisions, RSMo 78.580.

Sec. 1.105.130. Public meetings; order of business.

All meetings of the council shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the members of the council, the city clerk, city counselor and city manager shall take their customary places in the council chambers and the business of the council shall be taken up for consideration and disposition in the following order:

- (1) Roll call.
- (2) Approval of minutes of previous meetings.
- (3) Consent agenda.
- (4) Communications.
- (5) Regular agenda.
- (6) Other business.
- (7) Adjournment.

(Code 1974, § 2-10)

Sec. 1.105.140. Reading of minutes.

Unless a reading of the minutes of a council meeting is requested by a member of the council, such minutes may be approved without reading if the clerk has previously furnished each member with a summary thereof.

(Code 1974, § 2-11)

Sec. 1.105.150. Presiding officer may debate and vote, etc.

The mayor or such other member of the council as may be presiding may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a councilmember by reason of such person's acting as the presiding officer.

(Code 1974, § 2-12)

Sec. 1.105.160. Procedure for addressing the chair; improper references to be avoided.

Every member desiring to speak shall address the chair and, upon recognition by the presiding officer, shall confine himself/herself to the question under debate, avoiding all personalities and indecorous language.

(Code 1974, § 2-13)

Sec. 1.105.170. Interruptions of speaker.

A member, once recognized, shall not be interrupted when speaking unless it is to call such member to order, or as otherwise provided in this chapter. If a member, while speaking, is called to order, the member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

(Code 1974, § 2-14)

Sec. 1.105.180. Privilege of closing debate.

The member of city council moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

(Code 1974, § 2-15)

Sec. 1.105.190. Motion to reconsider.

A motion to reconsider any action taken by the council may be made only on the day such action was taken. A motion to reconsider may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by one of the prevailing side, but may be seconded by any member, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing in this section shall be construed to prevent any member of the council from making or remaking the same or any other motion at a subsequent meeting of the council.

(Code 1974, § 2-16)

Sec. 1.105.200. Requests of council to have remarks entered in minutes.

A member of the city council may request, through the presiding officer, the privilege of having an abstract of such member's statement on any subject under consideration by the council entered in the minutes. If the council consents thereto, such statement shall be entered into the minutes.

(Code 1974, § 2-17)

Sec. 1.105.210. Summary of debate.

The clerk may be directed by the presiding officer, with consent of the council, to enter in the minutes a summary of the discussion on any question coming regularly before the council.

(Code 1974, § 2-18)

Sec. 1.105.220. Procedure and conditions for private citizen to address council.

Any person desiring to address the council shall first obtain the recognition of the presiding officer. The following rules shall govern communications and recognition:

- (1) *Written communications.* Interested persons, or their representatives, may address the council by written communications in regard to any matter concerning the city's business by delivering a copy of such communication to the city clerk, either before the council meeting commences or at a recess of such council meeting, or by reading the written communication themselves.
- (2) *Oral communications.* Interested persons, or their representatives, may address the council by oral communications with regard to any matter concerning the city business.
- (3) *Reading of protests.* Interested persons, or their representatives, may address the council by reading of protests, petitions, or communications relating to zoning, sewer and street proceedings, hearing on protests, appeals and petitions, or similar matters relating to the city's business.

(Code 1974, § 2-19)

Sec. 1.105.230. Addressing council after motion is made.

After a motion is made by the city council, no person shall address the council without first securing the permission of the presiding officer to do so.

(Code 1974, § 2-20)

Sec. 1.105.240. Manner of addressing council.

Each person addressing the council shall give his name and address in an audible tone of voice for the records and, unless further time is granted by the council, shall limit his address to five minutes. All remarks shall be addressed to the council as a body, and not to any member thereof. No person, other than the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the presiding officer. No question shall be asked of a member of the city council except through the presiding officer.

(Code 1974, § 2-21)

Sec. 1.105.250. Decorum—Required of councilmembers and other persons.

- (a) While the council is in session, the members must preserve order and decorum, and a member shall neither by conversation or otherwise delay or interrupt the proceedings or the peace of the council, nor disturb any member while speaking or refuse to obey the orders of the council or its presiding officer, except as otherwise provided in this chapter.

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- (b) Any person making personal, impertinent or slanderous remarks, or who shall become boisterous while addressing the council shall be forthwith, by the presiding officer, barred from further audience before the council during that meeting, unless permission to continue be granted by a majority vote of the council.

(Code 1974, § 2-23)

Sec. 1.105.260. Same—Enforcement; sergeant-at-arms.

The mayor may designate a sergeant-at-arms of the council meetings, who shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the council meetings.

(Code 1974, § 2-24)

Sec. 1.105.270. Persons permitted outside audience area of council chamber.

No person, except city officials, their representatives and members of the news media, whether print or broadcast, shall be permitted outside the audience area without the express consent of the council.

(Code 1974, § 2-25)

Sec. 1.105.280. Special committees.

All special committees shall be appointed by the presiding officer, unless otherwise directed by the council.

(Code 1974, § 2-26)

Sec. 1.105.290. Members may file protests against council action.

Any member of the council shall have the right to have the reasons for their dissent from or protest against any action of the council entered on the minutes.

(Code 1974, § 2-27)

Sec. 1.105.300. Reports and resolutions to be filed with city clerk.

All reports and resolutions shall be filed with the clerk and entered on the minutes.

(Code 1974, § 2-28)

Sec. 1.105.310. Passage and adoption of ordinances and resolutions.

- (a) *Preparation of ordinances.* All ordinances shall be prepared under the supervision of the city manager and reviewed for legal sufficiency by the city counselor. Ordinances may be prepared for presentation to the council at the request of any councilmember, or the city manager or city counselor.
- (b) *Examination by administrative staff.* All proposed ordinances and resolutions shall be examined and reviewed by the city manager or the city manager's designated representative and be reviewed as to form and legality by the city counselor, prior to presentation to the council.

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- (c) *Recorded vote to be taken.* Upon each vote on an ordinance or resolution, the "ayes" and "nays" shall be called and recorded.
- (d) *Introduction of bill for passage and approval.*
- (1) Ordinances, resolutions and other matters or subjects requiring action by the council must be introduced and sponsored by a member of the council, except that the city manager or city counselor may present ordinances, resolutions and other matters or subjects to the council, and any councilman may assume sponsorship thereof by moving that such ordinances, resolutions, matters or subjects be adopted; otherwise, they shall not be considered.
 - (2) All proposed ordinances shall be given a bill number by the city clerk and shall be adopted by reference to the bill number and an ordinance number. No ordinance shall be put on its final passage on the same day on which it was introduced unless all councilmen then present shall specifically vote to waive this rule.
 - (3) All proposed ordinances shall be presented by bill, and shall have two readings. The style of the ordinances shall be: "Be it ordained by the council of the City of Gladstone, Missouri, as follows." (See RSMo 77.80.)
 - (4) No ordinance shall relate to more than one subject, which shall be generally expressed in its title and no ordinance or section thereof shall be amended or repealed unless the new ordinance refers generally to the title of the new ordinance or section amended or repealed and, when practicable, all ordinances shall be introduced as amendments to existing ordinances or sections thereof. This section shall not, however, invalidate any ordinance.
 - (5) The city clerk shall note the passage and effect of any ordinance on prior ordinances modified, amended or repealed.

(Code 1974, § 2-29)

Sec. 1.105.320. Motion to adjourn.

A motion to adjourn shall always be in order and decided without debate.

(Code 1974, § 2-30)

ARTICLE 3. OFFICERS AND EMPLOYEES²

²~~Cross reference(s) — Any ordinance relating to compensation of city officers or employees saved from repeal, § 1.100.150Cross reference(s) — ; director of public safety, § 1.130.200Cross reference(s) — et seq.~~

- CODE OF ORDINANCES
Title I - GOVERNMENT
CHAPTER 105. - ADMINISTRATION
ARTICLE 3. - OFFICERS AND EMPLOYEES
Division I. Generally

Division I. Generally

Sec. 1.105.330. Scope of article.

The offices and positions defined in this article include city councilmembers, city manager, city clerk, city collector, city counselor, city treasurer, city engineer, director of public works, municipal judges, ~~and director of public safety~~ Chief of Police and Fire Chief.

(Code 1974, § 2-51)

State law reference(s)—Definition of city "officer," RSMo 77.400.

Sec. 1.105.340. Residency requirements.

All officers elected or appointed to offices under the city government shall be qualified voters under the laws and constitution of this state and, except the city sextons, appointed ~~police~~public safety officers, ~~appointed members of the fire department~~ and employees having only ministerial duties or the city counselor if not employed full time, shall be residents of the city, or shall establish residency within a reasonable time after appointment. No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid city taxes, or forfeiture or defalcation in office.

(Code 1974, § 2-52; Ord. No. 4.335, § 1, 1-25-2016)

State law reference(s)—Residence requirements of officers, RSMo 77.380.

Sec. 1.105.350. Payment of officers and employees; creation of positions.

- (a) All officers of the city shall be paid in equal biweekly installments for their services except as otherwise provided by law or contract and all employees of the city shall be paid twice each month.
- (b) The creation of all officers and salaries attached thereto which may be provided by state law shall be by ordinance and they shall be for an indefinite term.

(Code 1974, § 2-53; Ord. No. 4.335, § 2, 1-25-2016)

State law reference(s)—Compensation of officers and employees generally, RSMo 77.440.

Sec. 1.105.360. Oath of office.

Every officer of the city and their assistants, and every member of the city council, before entering upon the duties of office, shall take and subscribe to an oath or affirmation before some court of record in the county, or the city clerk, that they possess all the qualifications prescribed for such office by law; that such person will support the Constitution of the United States, and of the State of Missouri, the provisions of all laws of this state affecting cities of this class, and the ordinances of the city, and faithfully demean themselves in office; which official oath or affirmation shall be filed with the city clerk. Every officer of the corporation, when required by law or ordinance, shall, within 15 days after election or appointment, and before entering upon the discharge of the duties of office,

give bond to the city, the premium to be paid by the city, in such sum and with such sureties as shall be designated by ordinance, conditioned for the faithful performance of their duty, and that the officer of the corporation will pay over all moneys belonging to the city, as provided by law, that may come into their hands. If any person elected or appointed to any office shall fail to take and subscribe such oath or affirmation, or to give bond as required in this chapter, such office shall be deemed vacant. For any breach of condition of any such bond, suit may be instituted thereon by the city, or by any person in the name of the city for the use of such person.

(Code 1974, § 2-54)

State law reference(s)—Similar provisions, RSMo 77.390.

Sec. 1.105.370. Authority of city manager to hire employees.

The city manager is authorized to employ or appoint such employees as are necessary to the efficient carrying on of the work of the city. The salaries for these and other positions shall be as established by budget documents and amendments thereto.

(Code 1974, § 2-55)

State law reference(s)—Authority of city manager to make appointments, RSMo 78.600.

Sec. 1.105.380. Acting officers.

The city manager or, when appropriate, the city council may appoint persons temporarily to all offices authorized by this article as acting officers of the city. Such appointments shall be for an indefinite term, but shall automatically terminate when the permanent officer is appointed to the position.

(Code 1974, § 2-56)

Sec. 1.105.390. Authority of city manager to assign additional duties or titles.

The city manager may assign such additional duties or titles to officers and employees of the city as the city manager deems necessary. Unless otherwise provided, no additional compensation shall be paid. Authority to assign additional duties shall include authority to assign the duties of two or more positions described in this article to a single officer or employee.

Division II. City Manager³

³State law reference(s)—City manager form of government in cities of the third class, RSMo 78.430 et seq.

Sec. 1.105.400. Salary and duties generally.

- (a) *Salary.* The city manager shall be paid a salary as set forth in the current salary ordinance.
 - (b) *Duties.* The city manager shall have duties as set forth in state law and this Code.
- (Code 1974, § 2-58)

State law reference(s)—Salary and duties of city manager generally, RSMo 78.610.

Division III. City Clerk**Sec. 1.105.410. Salary.**

The clerk of the city shall be paid a salary as set forth in the current salary ordinance.

(Code 1974, § 2-59)

Sec. 1.105.420. Duties generally; appointment of temporary clerk.

- (a) The city clerk shall attend all sessions of the city council, and shall keep the minutes and journal thereof. Upon every vote, the "yeas" and "nays" shall be called and recorded and every motion, resolution and ordinance shall be reduced to writing before the vote is taken thereon. The city clerk shall note the effect of any ordinance upon prior ordinances with particular reference to whether such prior ordinances are amended or repealed.
- (b) The city clerk shall keep such other records as are required by law or as are directed to be kept by the city council or city manager. The city clerk shall safely and carefully keep all records and papers belonging to the city which may be entrusted to the city clerk's care or for which the clerk may be responsible.
- (c) The city clerk shall be the general accountant of the city and shall perform all the duties required of the city clerk by ordinance or by the council or by the city manager.
- (d) The city clerk shall administer official oaths and also oaths to persons certifying to demands or claims against the city.
- (e) Whenever, for any reason, the city clerk is unable to perform the duties of such office, the city council may, by resolution, appoint a temporary clerk, who shall have all the powers and perform all the duties of the regular clerk. The temporary clerk shall receive no salary unless specifically directed by the council and in such event, shall receive the same salary, prorated, for the time such person so acts, as would the city clerk. In no event shall both the regular and temporary clerks receive pay at the same time.
- (f) When the council shall fix the rate of taxation for any given year, the city clerk shall make out appropriate and accurate tax books, and shall therein set out in suitable columns opposite the name of each person and item of taxable property, as returned by the assessor and board of equalization, the amount of taxes, whether general or special, due thereon, and shall charge the collector with the full amount of taxes levied, and to be collected. The city clerk shall also charge the city collector with all licenses and other duties of all kinds to be collected and shall keep appropriate and accurate books reflecting the licenses and other duties.
- (g) The city clerk shall keep an office in the city hall and shall devote their entire time to the duties of the office of city clerk.

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- (h) A contract file shall be kept by the city clerk of every contract entered into by the city. Such contract file shall not be taken from the office of the city clerk except to be used for the purpose of evidence in some legal matter or cause. In case of variance between copies of the contract, the one on file in the office of the city clerk shall control the construction of the contract.
 - (i) The city clerk shall further be responsible for doing stenographic work required by the city manager or members of the council or as otherwise directed by them.
 - (j) The city clerk shall secure a bond in the amount of \$7,500.00 payable to the city.

(Code 1974, § 2-60)

State law reference(s)—Duties of city clerk generally, RSMo 77.410.

Division IV. City Collector

Sec. 1.105.430. Salary.

The collector of the city shall be paid a salary as set forth in the current salary ordinance.

(Code 1974, § 2-61)

Sec. 1.105.440. Duties generally.

- (a) The city collector shall be familiar with state law, and shall perform all duties imposed upon such person thereby, and by this Code or other ordinances of the city. In addition to fulfilling the requirements of such statutes, the city collector shall keep such additional records and make such additional reports as may, from time to time, be requested by the city manager or the city council, and shall maintain an office in the city hall wherein all such records shall be kept.
- (b) The city collector is hereby charged with the collection of all general and special taxes, all licenses, fees or taxes, and all special assessments, including, without intending to thereby limit the foregoing definitions, real estate taxes, personal taxes, fuel taxes, public utilities taxes, merchants' and manufacturers' taxes, intoxicating liquor and beer licenses, occupational licenses, automobile licenses and dog licenses. It shall be the duty of the city collector to pay into the treasury, at least monthly, all money received by the city collector from all licenses of every description authorized by law to be collected.
- (c) The city collector shall secure a bond payable to the city in the amount of \$5,000.00.
- (d) No city license shall be issued until the amount prescribed therefor shall be paid to the city collector and licenses shall be signed by the mayor and clerk, and countersigned by the collector.
- (e) The collector shall at the first meeting of the council in April of each year, or as soon thereafter as may be, make out under oath lists of delinquent taxes remaining due and uncollected for each year, to be known as "the land and lot delinquent list" and "the personal delinquent list" and, at the meeting at which the delinquent lists are returned, or as soon as may be thereafter, the council shall examine carefully the delinquent lists, and if it appears that all property and taxes contained in the lists are properly returned as delinquent, the council shall approve the lists and cause a record thereof to be entered on the journal, and it shall cause the amount thereof to be credited to the account of the collector. The city council shall thereupon return the delinquent lists to the collector, charging the collector therewith, and the city collector shall proceed to collect the delinquent list in the manner provided by law for the collection of delinquent real and personal taxes for state and county purposes.

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- (f) The city collector shall report to the council, at least once each month, all taxes collected on the real and personal delinquent lists; and the city collector shall pay the taxes to the city treasurer and receive credit therefor.
 - (g) The city collector shall turn over to the collector's successor all uncollected delinquent lists, receiving credit therefor, and the city collector's successor shall be charged therewith; provided that the city council may declare worthless any and all personal delinquent taxes which the council may deem uncollectible.
 - (h) The city collector, by accepting such position, expressly waives and surrenders any right to compensation which the city collector might otherwise have under the statutes or laws of this Code or ordinances of this city, and the collector, before taking office, shall sign a statement to the following effect: "The undersigned hereby renounces and surrenders any right which he has or may have to compensation other than that provided by Ordinance No. _____ for acting as City Collector of the City of Gladstone."
 - (i) The city collector shall perform such other duties as may be assigned to the city collector by the city manager.

(Code 1974, § 2-62)

Division V. City Prosecutor

Sec. 1.105.450. Prosecutors.

- (a) The city manager shall appoint a city prosecutor and such assistant city prosecutors as are necessary to prosecute violations of the ordinances of the city in municipal court and all other courts of the State of Missouri, and shall establish the level of compensation for each such position.
- (b) One assistant city prosecutor shall be principally assigned to the housing court to prosecute city code violations assigned to that docket of the municipal court, and such other courts of the state where such violations are being litigated.
- (c) The city prosecutor and assistant city prosecutors shall serve at the pleasure of the city manager, and each shall serve a term of no more than two years without reappointment. The city manager may appoint the city prosecutor and assistant city prosecutors to as many successive terms as he deems appropriate.

(Code 1974, § 2-65; Ord. No. 4.113, § 1, 7-13-2009)

Division VI. City Counselor⁴

⁴State law reference(s)—Appointment and duties of city counselor, RSMo 98.340.

Sec. 1.105.460. Establishment of office and appointment.

There is hereby established the office of city counselor in accordance with RSMo 98.340. The city council shall appoint a city counselor, who shall be a lawyer licensed in the state.

(Code 1974, § 2-66)

Sec. 1.105.470. Duties.

The city counselor shall represent the city in all cases, other than involving the violation of municipal ordinances, in all courts of record in this state; shall draft all ordinances and contracts and all legal forms of every kind; and shall give legal advice to the council and other officers of the city, and perform such other duties as shall be prescribed by ordinance or shall be ordered by the council or the mayor.

(Code 1974, § 2-67)

Sec. 1.105.480. Compensation and expenses.

- (a) *Compensation.* The city counselor (if employed full time) shall be paid a salary as set forth in the current salary ordinance.
- (b) *Expenses.* The city counselor shall be reimbursed for all reasonable and necessary expenses advanced or incurred by the city counselor in connection with legal services performed for the city.
- (c) *Statements.* The city counselor shall submit, at such times as requested by the city council or mayor, a statement of the legal matters being handled.

(Code 1974, § 2-68; Ord. No. 4.335, § 3, 1-25-2016)

**Division VII. Director of Finance
(City Treasurer)**

Sec. 1.105.490. Salary.

The director of finance, who shall also serve as the treasurer of the city, shall be paid a salary as set forth in the current salary ordinance.

(Code 1974, § 2-69)

Sec. 1.105.500. Duties generally.

- (a) The city treasurer shall receive and keep the money of the city and pay out the money upon the presentation of any warrant drawn by the proper authority if there shall be enough money in the depository belonging to the fund upon which the warrant is payable. The city treasurer shall draw a check as city treasurer upon the city depository in favor of the legal holder of such warrant, and shall take up such warrant and charge the warrant to the fund upon which it is drawn. No money belonging to the city shall be paid out of the city depository except upon the checks of the city treasurer. No check shall be drawn upon the city depository by the treasurer except upon a warrant signed by the city manager and attested by the clerk.

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- (b) The city treasurer shall report to the council on or before July 1 in each year the amount of receipts and expenditures of the treasury, the amount of redemption of which provision must be made; also the amount of interest to be paid during the fiscal year. The city treasurer shall perform such other duties as may be directed by the council or city manager.
- (c) The city treasurer shall secure a bond payable to the city in the amount of \$75,000.00.
- (Code 1974, § 2-70)

Sec. 1.105.510. Reserved.

Division VIII. City Engineer

Sec. 1.105.520. Salary and duties generally.

- (a) *Salary.* The engineer of the city shall be paid a salary as set forth in the current salary ordinance.
- (b) *Duties.* The city engineer shall be a competent engineer whose duties shall be prescribed by the city manager.
- (Code 1974, § 2-72)

Division IX. Director of Public Works⁵

⁵Cross reference(s)—Utilities and taxes, title VI.

Sec. 1.105.530. Salary and duties generally.

- (a) *Salary.* The director of public works of the city shall be paid a salary as set forth in the current salary ordinance.
- (b) *Duties.* The duties of the director of public works shall be prescribed by the city manager.

(Code 1974, § 2-73)

Division X. Health Officer⁶

⁶Cross reference(s)—Health officer, § 2.100.010 et seq.

Sec. 1.105.540. Designation.

The city manager is hereby authorized to appoint the director of the county health center or other qualified individual as health officer for the city.

(Code 1974, § 2-75)

Sec. 1.105.550. Duties.

The health officer so appointed as provided in section 1.105.540 is hereby authorized to perform all of the duties of health officer for the city, as such duties are prescribed by ordinance and by law.

(Code 1974, § 2-76)

Sec. 1.105.560. Compensation.

The health officer may be paid such compensation as may be established by the city manager from time to time.

(Code 1974, § 2-77)

Sec. 1.105.570. Direction and supervision.

The health officer for the city shall serve at the direction of and under the supervision of the city manager.

(Code 1974, § 2-78)

Division XI. Conflicts of Interest⁷

⁷Editor's note(s)—Ord. No. 4.430 Editor's note(s)—, §§ 1—5, adopted May 29, 2018, amended div. XI in its entirety to read as herein set out. Former div. XI, §§ 1.105.580 Editor's note(s)—1.105.620, pertained to similar subject matter, and derived from Ord. No. 3.719, 8-9-1999; Ord. No. 4.241, 6-10-2013; Ord. No. 4.265, 5-12-2014; Ord. No. 4.335, 1-25-2016.

Sec. 1.105.580. Declaration of policy.

The proper operation of municipal government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a procedure for disclosure by certain officials and employees of private financial or other interests in matters affecting the city.

(Ord. No. 4.430, § 1, 5-29-2018; Ord. No. 4.489, § 1, 8-12-2019)

Sec. 1.105.590. Conflicts of interest.

The mayor or any member of the city council who has a substantial personal or private interest, as defined by RSMo 105.450—105.492, in any legislation shall disclose on the records of the city council the nature of his interest and shall disqualify himself from voting on any matters relating to this interest.

(Ord. No. 4.430, § 2, 5-29-2018; Ord. No. 4.489, § 2, 8-12-2019)

Sec. 1.105.600. Disclosure reports.

Each elected official, the city manager, the assistant city manager, the city treasurer, the finance director, and the city counselor (if employed full time), shall disclose the following information by May 1 if any such transactions were engaged in during the previous calendar year:

- (1) For such person, and all persons within the first degree of lineal consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of \$500.00, if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the political subdivision, and other than transfers for no consideration to the political subdivision.
- (2) The date and the identities of the parties to each transaction known to the person with a total value in excess of \$500.00, if any, that any business entity in which such person had a substantial interest as defined in RSMo 105.450, as amended, had with the political subdivision, other than payment of any tax, fee or penalty due to the political subdivision or transactions involving payment for providing utility service to the political subdivision, and other than transfers for no consideration to the political subdivision.
- (3) The city manager, assistant city manager, city treasurer, finance director, and their spouses and dependent children also shall disclose by May 1 for the previous calendar year the following information:
 - a. The name and address of each of the employers of such person from whom income of \$1,000.00 or more was received during the year covered by the statement;
 - b. The name and address of each sole proprietorship that he owned; the name, address and the general nature of the business partner or participant; the name and address of each partner or co-participant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the secretary of state; the name, address and general nature of the business conducted by any closely held corporation or limited partnership in which the person owned ten percent or more of any class of the outstanding stock or limited partnership units; and the name of any publicly traded corporation or limited partnership that is listed on a regulated stock exchange or automated quotation system in which the person owned

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two percent or more of any class of outstanding stock, limited partnership units or other equity interests;

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

(Ord. No. 4.430, § 3, 5-29-2018; Ord. No. 4.489, § 3, 8-12-2019)

Sec. 1.105.610. Filing of reports.

The reports, in the attached format, shall be filed with the city clerk and the Missouri Ethics Commission.

(Ord. No. 4.430, § 4, 5-29-2018; Ord. No. 4.489, § 4, 8-12-2019)

Sec. 1.105.620. When filed.

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

- (1) Each city manager, assistant city manager, city treasurer, finance director, and city counselor (if employed full time), shall file the statement within 30 days of such appointment or employment;
- (2) Every other person required to file a financial interest shall file the statement annually not later than May 1 and the statement shall cover the calendar year ending the immediately preceding December 31; provided that any member of the city council may supplement the financial interest statement to report additional interests acquired after December 31 of the covered year until the date of filing of the financial interest statement.

(Ord. No. 4.430, § 5, 5-29-2018; Ord. No. 4.489, § 5, 8-12-2019)

ARTICLE 4. PERSONNEL⁸

⁸State law reference(s)—Right of city employees to join labor unions and bargain collectively, RSMo 105.500—105.530; state worker's compensation law, RSMo 287.010 et seq.; authority of city council to fix compensation of officers and employees, RSMo 77.440.

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Title I - GOVERNMENT
CHAPTER 105. - ADMINISTRATION
ARTICLE 4. - PERSONNEL
Division I. Generally

Division I. Generally

Sec. 1.105.630. Personnel policy generally.

It is hereby declared the personnel policy of the city that:

- (1) Employment in the city government shall be based on merit and skills, free of personal and political consideration.
- (2) Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the city government.
- (3) Appointments, promotions and other personnel actions shall be based on the merit principle.
- (4) High morale shall be maintained by fair administration of this chapter and by every consideration of the rights and interests of employees consistent with the best interest of the public and the city.
- (5) Tenure of employees shall be subject to good behavior, the satisfactory performance of work, necessity of the performance of work, and the availability of funds.

(Code 1974, § 22-1)

Sec. 1.105.640. Adoption of personnel rules; authority of city manager; employee handbook.

- (a) The city council shall by resolution adopt, and amend as appropriate, policies governing the rules and regulations for the administration of personnel matters affecting the city's employees.
- (b) The city manager shall appoint and discharge such officers and employees as are placed under the city manager's authority by state statute or delegation by the city council, and shall administer the personnel policies adopted by the city council, and may delegate to any other officer of the city whom the city manager designates, the authority to act on behalf of the city manager in the administration of personnel matters.
- (c) The city council shall by resolution adopt, and amend from time to time as appropriate, the "Gladstone City Employee Handbook," which shall be a compilation of the personnel policies adopted by the city council that are relevant to the city's employees, and which shall serve as the official source of guidelines for employees for their understanding of working conditions, performance expectations, employee benefits, compensation, rights and responsibilities, and related personnel matters.

(Code 1974, § 22-6; Ord. No. 3.859, § 2, 3-24-2003)

Sec. 1.105.650. Administration of chapter.

The personnel program established by this article shall be administered by the city manager or any officer so designated by the city manager.

(Code 1974, § 22-15)

Division II. Insurance Programs

Sec. 1.105.660. Group health insurance—Conditions; amounts of premiums; city manager may make participation in plan condition of new employment.

In addition to the compensation otherwise provided for persons holding full-time positions described in exhibits on file in the office of the city clerk, the city hereby authorizes the payment of premiums for group health insurance, under the conditions set forth in exhibit 1, likewise on file, which conditions may be revised from time to time by the city manager in accordance with personnel policies approved by the city council. The total amount contributed by the city per month for group health insurance shall not exceed the amounts shown in exhibit 1, except that new employees may be added and amounts paid for them which are consistent with existing cost formulas shown in exhibit 1. Financial participation shall be in accord with exhibit 1. The city manager is hereby authorized to make participation and continuation in the plan a condition of new employment.

(Code 1974, § 22-16)

Sec. 1.105.670. Same—Coverage and payments to underwriter; group application; termination.

Coverage shall be afforded and payment to the underwriter shall be made as set forth in exhibit 2 which is on file in the office of the city clerk. The city manager is hereby directed and authorized to enter into a group application which shall be in accordance with the provisions set forth in exhibit 2. Termination by the city on 30 days' notice shall be provided in writing in such contract.

(Code 1974, § 22-17)

Sec. 1.105.680. Same—Insurance not taxable to employees.

The value of insurance granted as compensation in accordance with sections 1.105.660 and 1.105.670 shall not be deemed income for tax reporting purposes.

(Code 1974, § 22-18)

Sec. 1.105.690. Group shortterm disability insurance plan—Employees may participate; where provisions set forth; participating employees to pay premiums.

The employees of the city are hereby authorized to participate in a group shortterm disability insurance plan. The provisions of the plan are set forth in exhibit 1, on file in the office of the city clerk. The premiums for this policy shall be paid in full by the participating employees.

(Code 1974, § 22-19)

Sec. 1.105.700. Same—City manager to administer; duties generally.

The city manager is hereby authorized to administer the group shortterm disability insurance plan. These duties shall include, but not be limited to, enrollment of employees and deduction of premiums from the wages of participating employees according to the schedule on file in the human resources office.

(Code 1974, § 22-20)

Sec. 1.105.710. Same—City manager may make participation, etc., condition of new employment.

The city manager is hereby authorized to make participation and continuation in the plan a condition of new employment.

(Code 1974, § 22-21)

Division III. Local Government Employees Retirement System⁹

⁹State law reference(s)—Local government employees retirement system, RSMo 70.600 et seq.

Sec. 1.105.720. Election by city to participate; coverage of certain employees authorized.

The city is a "political subdivision," as defined in RSMo 70.600—70.760, and hereby elects to have covered by the state local government employees retirement system all its eligible employees in the following classes:

- (1) Present and future general employees;
- (2) Present and future firefighters; and
- (3) Present and future police officers.

(Code 1974, § 22-22)

Sec. 1.105.730. Credit for prior service.

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

(Code 1974, § 22-23)

State law reference(s)—Computation of prior service credit, RSMo 70.640.

Sec. 1.105.740. Deductions from wages; payment of deductions and employer contributions.

The human resources administrator is hereby authorized and directed to deduct from the wages and salaries of each employee member any member contributions required by RSMo 70.705 and to promptly remit the deductions to the retirement system, together with the employer contributions required by RSMo 70.730.

(Code 1974, § 22-24)

Division IV. Social Security¹⁰

¹⁰State law reference(s)—Old age and survivors insurance, RSMo 105.300 et seq.

Sec. 1.105.750. Extended to eligible employees.

It is hereby declared to be the policy and purpose of the city to extend to all eligible employees and officials who are not excluded by law, and whether employed in connection with a governmental or proprietary function of the city, the benefits of the system of federal old-age and survivors insurance as authorized by the Social Security Act amendments of 1950 (42 USC 401 et seq.), and by senate committee substitute for Senate Bill No. 3 of the 66th General Assembly of the state and amendments thereof, as such act may be now and hereafter in effect.

(Code 1974, § 22-25)

Sec. 1.105.760. Plan and agreement.

The city manager and city clerk are hereby authorized and directed, on behalf of the city, to prepare, execute and submit to the division of budget and comptroller of the state, as state agency, a plan and agreement for extending such benefits to such eligible employees and officials of the city in the form prepared by the state agency and hereby approved and adopted by the city council of this city, which plan and agreement are to become effective upon approval thereof by the state agency, and are further authorized and directed to execute agreements and modifications and amendments thereof with such state agency, providing for the extension of such benefits to such employees and officials as set forth in such plan and agreement, as provided for in section 1.105.750; such plan and agreement to provide that such extension of benefits be effective on January 1, 1955.

(Code 1974, § 22-26)

State law reference(s)—Agreements, RSMo 105.350, 105.360.

Sec. 1.105.770. Deductions from wages.

Commencing on the first day of the month following the date of the approval of the plan and agreement of this city by the state agency, there shall be deducted from the wages of all employees and officials of the city to whom the benefits of such system of federal old-age and survivors insurance are extended, by virtue of the plan and agreement provided for in this division, the amount of each of such employees' and officials' contributions, as determined by the applicable state and federal laws and by such plan and agreement, the aggregate amount of such deductions to be paid into the contributions fund created by senate committee substitute for Senate Bill No. 3 of the 66th General Assembly of the state; provided that from the first payment of wages made to each of such employees and officials after the benefits of such system have been extended to such employees and officials, there shall be deducted a sum equal to the amount which would have been due and payable from each of such employees and officials had such extension of benefits been provided and effective on January 1, 1955.

(Code 1974, § 22-27)

State law reference(s)—Authority for such deductions, RSMo 105.370.

Sec. 1.105.780. Contributions of city.

Commencing on the first day of the month following the date of the approval of the plan and agreement of this city by the state agency, there is hereby authorized to be appropriated from the general fund of the city and there is and shall be appropriated the sum or sums of money necessary to pay the contributions of the city, which shall be due and payable by virtue of the extension of the benefits of the federal old-age and survivors insurance system to the eligible employees and officials of the city, such sum or sums of money to be paid into the contributions fund created by senate committee substitute for Senate Bill No. 3 of the 66th General Assembly of the state; provided that in making the first payment to such contributions fund, after the benefits of such system

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have been extended to such employees and officials, such first payment shall include a sum equal to the amount which would have been due and payable had such extension of benefits been provided and effective on January 1, 1955. The fund from which such appropriation is made will, at all times, be sufficient to pay the contributions of the city by this section directed to be paid to such contributions fund.

(Code 1974, § 22-28)

State law reference(s)—Authority for such contributions, RSMo 105.370.

Sec. 1.105.790. Administration of plan.

The city, from and after the approval of the plan and agreement of this city by the state agency, shall fully comply with, and shall keep such records, make such reports and provide such methods of administration of such plan and agreement as may be required by all applicable state and federal laws, rules and regulations, now and hereafter in effect with respect to the extension of the benefits of the federal old-age and survivors insurance system to the employees and officials of this city. For the purpose of administering such plan and agreement, the city clerk shall be the official who shall make all required reports, keep all records, and be responsible for the administration of such plan and agreement on behalf of this city, and any and all notices and communications from the state agency to this city with respect to such plan and agreement shall be addressed to "City Clerk, City of Gladstone, Missouri."

(Code 1974, § 22-29)

CHAPTER 110. BOARDS, COMMISSIONS AND COMMITTEES¹¹

¹¹Cross reference(s)—Recycling and solid waste management committee, § 2.115.430Cross reference(s)— et seq.; board of zoning adjustment, § 7.190.010Cross reference(s)— et seq.; building and construction board of appeals, § 9.100.040Cross reference(s)—; board of electrical examiners, § 9.400.120; board of plumbing examiners, § 9.900.110.

ARTICLE 1. IN GENERAL

Sec. 1.110.010. Certain boards, commissions and committees authorized; general qualifications for appointment; terms; selection of chairmen and other officers.

- (a) The following boards, commissions, and committees are hereby authorized:
 - (1) Arts commission.
 - (2) Board of zoning adjustment.
 - (3) Capital improvements program committee.
 - (4) Code board of appeals.
 - (5) Environmental management advisory committee.
 - (6) Neighborhood commission.
 - (7) Parks and recreation advisory board.
 - (8) Planning commission.
 - (9) Tax increment financing (TIF) commission.
- (b) All members appointed to boards, commissions, or committees of the city shall be residents of the city for at least one year, unless specifically provided otherwise in this Code.
- (c) No individual shall be simultaneously appointed to, nor shall simultaneously serve on, two or more of the following boards, commissions, or committees: the planning commission, the board of zoning adjustment, and/or the tax increment finance commission.
- (d) All members of the city's boards, commissions, and committees shall be appointed by the mayor with the approval of the city council.
- (e) Any member of the city's boards, commissions, or committees may be removed by the city council for cause stated in writing.
- (f) The chairman and other officers of each board, commission, and committee shall be elected by the members of such board, commission, and committee for one-year terms. Each such chairman and other officers may serve up to three consecutive terms in a specific office, and thereafter, may be re-elected to their previous position after a lapse of one year.
- (g) A quorum shall consist of a simple majority of any board or commission listed above. This shall be defined as one more than half; based on the appointed member count. No action shall be taken unless a quorum is present.

(Code 1974, § 2-31; Ord. No. 3.921, § 1, 6-14-2004; Ord. No. 3.977, § 1, 12-12-2005; Ord. No. 4.013, §§ 1, 2, 10-9-2006; Ord. No. 4.023, § 1, 2-26-2007; Ord. No. 4.046, § 1, 9-24-2007; Ord. No. 4.212, 5-29-2012; Ord. No. 4.499, § 1, 11-25-2019)

ARTICLE 2. PARKS AND RECREATION ADVISORY BOARD¹²

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ARTICLE 2. PARKS AND RECREATION ADVISORY BOARD

¹²Cross reference(s)—Parks and recreation, § 2.130.010Cross reference(s)— et seq.

Sec. 1.110.020. Established.

There is hereby established a parks and recreation advisory board for the city.
(Code 1974, § 2-32)

Sec. 1.110.030. Appointment of members.

Appointments to the parks and recreation advisory board shall be made by the mayor, with the approval of the city council, and all terms shall be deemed to commence on January 1 of each year.
(Code 1974, § 2-33)

Sec. 1.110.040. Composition; terms of office.

- (a) The parks and recreation advisory board shall consist of nine city resident members who shall serve without compensation.
 - (b) All terms of members of the parks and recreation advisory board shall be for three years.
- (Code 1974, § 2-34; Ord. No. 3.018, § 2, 8-26-1991; Ord. No. 4.499, § 8, 11-25-2019)

Sec. 1.110.050. Officers.

The parks and recreation advisory board shall elect a chairman, vice-chairman and secretary to serve for a term of one year each. The chairman, vice-chairman and secretary may serve up to three consecutive terms in a specific office, and thereafter, may be re-elected to their previous position after a lapse of one year.
(Code 1974, § 2-35; Ord. No. 4.046, § 8, 9-24-2007)

Sec. 1.110.060. Duties generally.

The parks and recreation advisory board shall consider those problems which relate to the city parks and shall make recommendations to the city council at such times as the board may see fit or as the council may direct; provided that a report shall be made in writing to the city council during the month of April of each year. The parks and recreation advisory board shall also serve as the tree board for the city.

ARTICLE 3. PLANNING COMMISSION¹³

¹³Cross reference(s)—Zoning and planning, title VII.

State law reference(s)—Municipal planning, RSMo 89.300 et seq.; powers of city planning commission generally, RSMo 89.370.

Sec. 1.110.070. Established; composition; appointment; compensation; terms; vacancies; removal of members.

A planning commission consisting of 12 citizens appointed by the city council, the mayor, if the mayor so chooses, a member of the council elected by the council, if the council, after each reorganization, so chooses, is hereby established. All citizen members of the commission shall serve without compensation. The term of each of the citizen members shall be for four years; except that the terms of the first commission shall be such that the first three members appointed shall serve for four years; the second three appointed shall serve for three years; the third three appointed shall serve for two years; and the last three appointed shall serve for one year. Any vacancy in membership of the planning commission shall be filled for the unexpired term by appointment of the council. Any citizen member of the planning commission may be removed by the council for cause stated in writing and after a public hearing. All terms for the first planning commission shall begin as of January 1, 1964.

(Code 1974, § 2-37)

State law reference(s)—Composition, membership, terms of office, etc. of city planning commissions, and filling vacancies therein, RSMo 89.320.

Sec. 1.110.080. Officers; meetings; rules and records; expenditures.

The planning commission shall elect a chair, vice chair and secretary from planning commission whose terms shall be for one year. The planning commission shall hold regular meetings and special meetings as they may provide and rules for the transaction of business shall be adopted and a record of proceedings shall be kept. The records of the planning commission shall be public records.

(Code 1974, § 2-38; Ord. No. 4.046, § 3, 9-24-2007; Ord. No. 4.499, § 3, 11-25-2019)

State law reference(s)—Similar provisions, RSMo 89.330.

Sec. 1.110.090. Functions generally.

The planning commission hereby established shall carry out the duties established for the planning and zoning commissions. Such planning commission shall appoint a subcommittee to review all ordinances governing the planning commission's activity and to make recommendations with regard to future ordinances consistent with RSMo 89.010 et seq.

(Code 1974, § 2-39)

Sec. 1.110.100. Powers and duties generally; duties of public officials.

The planning commission may make reports and recommendations relating to the plan and development of the municipality to public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens. The planning commission may recommend to the executive or legislative officials of the municipality programs for public improvements and the financing thereof. All public officials shall, upon request, furnish to the planning commission, within a reasonable time, all available information it requires for its work. The planning commission, its members and employees, in the performance of its functions, may enter upon any land to make examinations and surveys. In general, the planning commission shall have the power necessary to enable it to perform its functions and promote municipal planning.

(Code 1974, § 2-40)

State law reference(s)—Powers and duties generally of planning commission, RSMo 89.370, 89.390.

Sec. 1.110.110. Authority and duty as to city plan; preparation of zoning plan.

- (a) The planning commission shall make and adopt a city plan for the physical development of the municipality. The city plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, shall show the planning commission's recommendations for the physical development and uses of land, and may include, among other things, the general location, character and extent of streets and other public ways, grounds, places and spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned; the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment or change of use of any of the foregoing; the general character, extent and layout of the replanning of blighted districts and slum areas. The planning commission may also prepare a zoning plan for the regulation of the height, area, bulk, location and use of private, nonprofit and public structures and premises, and of population density, but the adoption, enforcement and administration of the zoning plan shall conform to the provisions of RSMo 89.010—89.250.
- (b) In the preparation of the city plan, the planning commission shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the municipality. The plan shall be made with the general purpose of guiding and accomplishing a coordinated development of the municipality which will, in accordance with existing and future needs, best promote the general welfare, as well as efficiency and economy in the process of development.

(Code 1974, § 2-41)

State law reference(s)—Similar provisions, RSMo 89.340, 89.350.

Sec. 1.110.120. Adoption of city plan or parts thereof; recording and filing of action taken.

The planning commission may adopt the plan as a whole by a single resolution, or, as the work of making the whole city plan progresses may from time to time adopt a part or parts thereof, any part that corresponds generally with one or more of the functional subdivisions of the subject matter of the plan. Before the adoption, amendment or extension of the plan or portion thereof, the commission shall hold at least one public hearing thereon. Fifteen days' notice of the time and place of this hearing should be published in at least one newspaper having general circulation within the municipality. The hearing may be adjourned from time to time. The adoption of the plan requires a majority vote of the full membership of the planning commission. The resolution shall refer expressly to the maps, descriptive matter and other matters intended by the commission to form a whole or part of the plan and the action taken shall be recorded on the adopted plan or part thereof by the identifying signature of the secretary of the planning commission and filed in the office of the planning commission, identified properly by file number, and a copy of the plan or part thereof shall be certified to the council and the municipal clerk and a copy shall be recorded in the office of the county recorder of deeds and shall be available at the city clerk's office for public inspection during normal office hours.

(Code 1974, § 2-42)

State law reference(s)—Similar provisions, RSMo 89.360.

Sec. 1.110.130. Submission of plans, etc., to planning commission; approval of plans.

Whenever the planning commission adopts the plan of the municipality or any part thereof, no street or other public facilities, or no public utility, whether publicly or privately owned, and, the location, extent and character thereof having been included in the recommendations and proposals of the plan or portions thereof, will be constructed or authorized in the municipality until the location, extent and character thereof has been

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submitted to and approved by the planning commission. In case of disapproval, the planning commission shall communicate its reasons to the council, and the council, by a vote of not less than two-thirds of its entire membership, may overrule the disapproval and, upon the overruling, the council or the appropriate board or officer may proceed. The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land for sale or lease of any street or other public facility is subject to similar submission and approval, and the failure to approve may be similarly overruled. The failure of the planning commission to act within 60 days after the date of official submission to it shall be deemed approval.

(Code 1974, § 2-43)

State law reference(s)—Similar provisions, RSMo 89.380.

Sec. 1.110.140. Planning commission to perform functions of zoning commission.

The planning commission shall have and perform all of the functions of the zoning commission described in RSMo 89.010 et seq.

(Code 1974, § 2-44)

State law reference(s)—Similar provisions, RSMo 89.390; zoning commission constituting planning commission on and after October 13, 1963, RSMo 89.330.

Sec. 1.110.150. Adoption of major street plans.

When the planning commission adopts a city plan which includes at least a major street plan or progresses in its city planning to the making and adoption of a major street plan, and files a certified copy of the major street plan in the office of the recorder of the county in which the municipality is located, no plat of the subdivision of land lying within the municipality shall be filed or recorded until it has been submitted to and a report and recommendation thereon made by the commission to the city council and the council has approved the plat as provided by law. All plats shall continue to require approval pursuant to existing legislation.

(Code 1974, § 2-45)

State law reference(s)—Similar provisions, RSMo 89.400.

Sec. 1.110.160. Authority of planning commission and council to adopt additional subdivision regulations to those already existing.

The planning commission and the council may by ordinance adopt regulations governing the subdivision of land within its jurisdiction supplementary to those already existing which are hereby expressly approved. In preparing such recommendations, the planning commission shall review the provisions of RSMo 89.410. Prior to the adoption of any modified subdivision regulations a duly advertised public hearing thereon shall be held by the council.

(Code 1974, § 2-46)

Sec. 1.110.170. Approval or disapproval of plat by planning commission.

- (a) Within 60 days after the submission of a plat to the planning commission, the planning commission shall approve or disapprove the plat; otherwise, the plat is deemed approved by the commission, except that the

planning commission with the consent of the applicant for the approval may extend the 60-day period. The grounds of disapproval of any plat by the planning commission shall be made a matter of record.

- (b) The approval of a plat by the planning commission does not constitute or effect an acceptance by the municipality or public of the dedication to public use of any street or other ground shown upon the plat.

(Code 1974, § 2-47)

State law reference(s)—Similar provisions, RSMo 89.420, 89.430.

Sec. 1.110.180. Conditions for street improvements pursuant to adoption of major street plan and subdivision regulations.

Upon adoption of a major street plan and subdivision regulations, pursuant to RSMo 89.010 et seq., the municipality shall not accept, lay out, open, improve, grade, pave or light any street, lay or authorize the laying of water mains, sewers, connections or other utilities in any street within the municipality unless the street has received the legal status of a public street prior to the adoption of a city plan; or unless the street corresponds in its location and line with a street shown on a subdivision plat approved by the council or planning commission or on a street plan made by and adopted by the commission. The council may locate and construct or may accept any other street if the ordinance or other measure for the location and construction or for the acceptance is first submitted to the planning commission for its approval and approved by the planning commission or, if disapproved by the planning commission, is passed by the affirmative vote of not less than two-thirds of the entire membership of the council.

(Code 1974, § 2-48)

State law reference(s)—Similar provisions, RSMo 89.460.

Sec. 1.110.190. Issuance of building permit.

After the adoption of a major street plan, no building permit shall be issued for and no building shall be erected on any lot within the territorial jurisdiction of the planning commission unless the street giving access to the location on which the building is proposed to be placed conforms to the requirements of section 1.110.180.

(Code 1974, § 2-49)

State law reference(s)—Similar provisions, RSMo 89.470.

Sec. 1.110.200. Establishment of building or setback lines.

Whenever a plan for major streets is adopted, the council may, upon recommendation of the planning commission, establish, regulate and limit and amend building or setback lines on major streets and prohibit any new building being located within the building or setback lines. When a plan for proposed major streets or other public improvements has been adopted, the council may prohibit any new building being located within the proposed site or right-of-way when the centerline of the proposed street or the limits of the proposed sites have been carefully determined and are accurately delineated on maps approved by the planning commission and adopted by the council. The board of zoning adjustment may modify or vary such regulations as are adopted in specific cases in order that unwarranted hardship, which constitutes an unreasonable deprivation of use as distinguished from the mere grant of a privilege, may be avoided. Adoption or amendment of any regulations pursuant hereto shall be preceded by a public hearing as prescribed in section 1.110.120.

(Code 1974, § 2-50)

State law reference(s)—Similar provisions, RSMo 89.480.

ARTICLE 4. UNIFORM CODES BOARD OF APPEALS¹⁴

¹⁴Cross reference(s)—Building and construction, title IX; board of appeals, § 9.100.040Cross reference(s)—.

Sec. 1.110.210. Established.

There is hereby established a uniform codes board of appeals to hear and decide appeals from the requirements of the uniform codes adopted by the city. The uniform codes board of appeals shall be selected, serve, and have the responsibilities as set forth in this article.

(Code 1974, § 2-50.1)

Sec. 1.110.220. Qualifications and appointment of members; term; ex officio member.

- (a) The uniform codes board of appeals shall consist of three members who shall be appointed by the mayor with the approval of the city council, to serve terms of three years each.
- (b) A majority of the members of the uniform codes board of appeals shall be residents of the city, qualified by experience and training to pass upon matters pertaining to fire, building, electrical, plumbing, and mechanical construction and shall not be employees of the city.
- (c) The city building official shall be an ex officio member of the uniform codes board of appeals and act as secretary to such board.

(Code 1974, § 2-50.2; Ord. No. 4.046, § 6, 9-24-2007; Ord. No. 4.499, § 6, 11-25-2019)

Sec. 1.110.230 Reserved.

Editor's note(s)—Ord. No. 4.499, § 6, repealed § 1.110.230Editor's note(s)— which pertained to the appointment and term of the chair and other officers and derived from the 1974 Code, § 2-50.3; and Ord. No. 4.406, § 6, adopted Sept. 24, 2007.

Sec. 1.110.240. Time and place of meeting; meetings to be open to the public; exception.

- (a) The uniform codes board of appeals shall meet on the call of its chair and all meetings shall be held at city hall.
- (b) All meetings of the uniform codes board of appeals shall be open to the public pursuant to RSMo 610.010 et seq., unless otherwise authorized by law.

(Code 1974, § 2-50.4)

Sec. 1.110.250. Purpose and responsibilities.

The purpose and responsibilities of the uniform codes board of appeals shall be as follows:

- (1) To determine suitability of alternate materials and methods of construction.
- (2) To vary or modify the application of the requirements of the duly adopted uniform codes.
- (3) To hear and decide appeals and requests for variances from the floodplain management requirements under title VIII, chapter 110, of this Code.

(Code 1974, § 2-50.5; Ord. No. 4.317, §§ 1, 2, 7-27-2015)

Sec. 1.110.260. Adoption of certain rules of procedure.

The uniform codes board of appeals shall adopt rules of procedure for conducting business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

(Code 1974, § 2-50.6)

ARTICLE 5. CAPITAL IMPROVEMENT PROGRAM COMMITTEE

Sec. 1.110.270. Established.

There is hereby established a capital improvement program committee, which committee shall be selected, serve and have the responsibilities as set forth in this article.

(Code 1974, § 2-84; Ord. No. 3.492, § 1, 1-22-1996)

Sec. 1.110.280. Appointment of members; term.

- (a) The capital improvement program committee shall consist of 14 members, including two nonvoting city councilmembers to serve as liaisons to the council, who shall be residents of the city and who shall be appointed by the mayor with the approval of the city council. The composition of the 14-member committee shall be as follows:
 - (1) Six citizen members.
 - (2) Two parks and recreations advisory board members.
 - (3) Three planning commission members.
 - (4) One Gladstone special road district #3 commissioner.
 - (5) Two city council liaison members.
- (b) Citizen members of the capital improvement program committee shall be appointed to three-year terms. The terms of positions on the capital improvement program committee created by Ordinance No. 2.747 and existing at the time of adoption of the ordinance from which this section is derived shall continue as originally established. The terms of the additional citizen capital improvement program committee member established by this subsection shall be such that the new member shall be appointed for a term of three years with such initial term expiring on December 31, 1998.
- (c) Terms of the city council members, parks and recreation advisory board members, planning commission members, city staff members and road district commissioner of the capital improvement program committee shall be for one year.
- (d) All terms of members of the capital improvement program committee shall commence on January 1 of each calendar year, and members shall serve until a successor is appointed and duly qualified. In the event a member of the capital improvement program committee is an elected official and not reelected to his/her elected position, membership on the capital improvement program committee shall cease upon termination of service in the elected position.

(Code 1974, § 2-85; Ord. No. 3.040, § 1, 1-27-1992; Ord. No. 3.492, § 2, 1-22-1996; Ord. No. 4.046, § 5, 9-24-2007)

Sec. 1.110.290. Appointment and term of chair and other officers.

The members of the capital improvements program committee shall elect a chairman, vice-chairman, and secretary to serve for a term of one year each. The chairman and other officers may serve up to three consecutive terms in a specific office, and thereafter, may be re-elected to their previous position after a lapse of one year.

(Code 1974, § 2-86; Ord. No. 4.046, § 5, 9-24-2007)

Sec. 1.110.300. Time and place of meeting; meeting to be open to public; exception.

- (a) The capital improvement program committee shall not meet less than once quarterly. The capital improvement program committee may meet in special meetings at such additional times as may be set by the chair. All meetings of the capital improvement program committee shall be held at city hall.
- (b) All meetings of the capital improvement program committee shall be open to the public unless otherwise specified by law.

(Code 1974, § 2-87)

Sec. 1.110.310. Powers and duties.

The capital improvement program committee shall have the authority and responsibility to review the capital and infrastructure needs of the city and to recommend to the city council capital improvement programs. The revenue sources to be considered for the capital improvement programs recommended by the capital improvement program committee shall include the capital improvement sales tax fund, transportation sales tax fund, combined water and sanitary sewer fund and such other funds as may be available in the city from time to time. This review and recommendation shall be made on an annual basis and submitted to the city council for its consideration and approval. Nothing contained in this section shall be deemed to restrict the use of the funds designated in this section for capital expenditures only and such funds shall be available for any lawful purpose as originally established.

(Code 1974, § 2-88; Ord. No. 3.492, § 3, 1-22-1996)

Sec. 1.110.320. Promulgation of certain rules and procedures.

The capital improvement program committee established in this article is empowered to promulgate rules and procedures, consistent with this article, to be followed by it for the conduct of its meeting and to carry out the duties and responsibilities hereby granted to it. Before any such rules and procedures of the capital improvement program committee shall become effective, they shall first be approved by resolution of the city council.

(Code 1974, § 2-89)

ARTICLE 6. RESERVED¹⁵

¹⁵Editor's note(s)—Ord. No. 4.212, adopted May 29, 2012, repealed Art. 6, §§ 1.110.330—1.110.360, which pertained to the telecommunications advisory board and derived from Ord. No. 4.046, § 10, adopted Sept. 24, 2007.

Secs. 1.110.330—1.110.360. Reserved.

ARTICLE 7. ARTS COMMISSION¹⁶

¹⁶Editor's note(s)—Ord. No. 3.977, § 1, adopted Dec. 12, 2005, established the membership, terms of service, and duties of the city arts council. Ord. No. 3.977 was superseded by Ord. Nos. 4.013 and 4.014, adopted Oct. 9, 2006. Said ordinances abolished the arts council and established the city arts commission. See the Code Comparative Table for further information.

Sec. 1.110.370. Appointment of members.

- (a) The arts commission shall consist of up to nine members of the public, a majority of whom shall be residents of the city, who shall be appointed by the mayor, with the approval of the city council. The members of the arts commission shall elect a chairman and vice chairman.
- (b) Each member shall:
 - (1) Possess acknowledged expertise in one or more of the following fields: architecture, arts criticism, arts education, history, dance, communicative arts, crafts, theater, heritage arts, landscape architecture, literature, music, painting, photography, planning, sculpture, or ethnic arts; or
 - (2) Have publicly demonstrated a deep interest in and appreciation for cultural and artistic activities.

In considering candidates for appointment, the mayor will seek suggestions from the current members of the arts commission and city staff.

(Ord. No. 4.014, § 1, 10-9-2006; Ord. No. 4.016, § 1, 10-23-2006; Ord. No. 4.046, § 4, 9-24-2007; Ord. No. 4.376, § 1, 12-12-2016; Ord. No. 4.499, § 4, 11-25-2019)

Sec. 1.110.380. Terms.

The members of the arts commission shall serve terms of three years each, which shall begin on January 1 and terminate on December 31 of their terms. Beginning January 1, 2017, terms of the newly appointed arts commission members shall be staggered as follows: one member to serve until December 31, 2017, one member to serve until December 31, 2018, and two members to serve until December 31, 2019. At the expiration of each of these initial terms, members thereafter appointed shall serve three-year terms.

(Ord. No. 4.014, § 1, 10-9-2006; Ord. No. 4.376, § 1, 12-12-2016)

Sec. 1.110.390. Duties of the arts commission.

The arts commission shall:

- (1) Advocate for the arts as a part of the community's culture;
- (2) Establish annual goals or work programs at an annual planning session;
- (3) Recommend an annual arts program to the city council for approval. Such program shall be provided in a calendar format and work plan and may be subject to amendment;
- (4) Task forces members to design, implement and execute specific projects as determined by the annual program of work;
- (5) Recommend criteria for the selection of any artist or work of art to be funded through the arts program;
- (6) Provide periodic reports to the city council on recommended acquisitions for works of art;
- (7) Recommend to the city council the public site or sites at which to install, display, mount or perform any work of art funded through the arts program;
- (8) Advise the city council on the maintenance, conservation, removal, relocation, or alteration of any public arts facility or work of art owned by or loaned to the city;
- (9) Make recommendations to the city council on the funding for specific works of art;

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- (10) Seek private or public donations and grants for the arts program, and
 - (11) Provide an annual report to the city council on or before June 30 of each fiscal year that describes the activities of the commission during the current fiscal year and contains the arts program of work.

(Ord. No. 4.014, § 1, 10-9-2006)

ARTICLE 8. NEIGHBORHOOD COMMISSION

Sec. 1.110.400. Appointment of members.

The City of Gladstone neighborhood commission shall consist of nine members who shall be appointed by the mayor with the approval of the city council. The City of Gladstone neighborhood commission shall be composed of the following:

- (1) Chair (or his/her designee) of the Gladstone economic betterment council (GEBC); and
- (2) Executive director of GEBC's neighbors helping neighbors; and
- (3) Officer, board member, or appointed representative of six geographically representative neighborhood organizations; and
- (4) Local business owner.

All members shall serve the City of Gladstone neighborhood commission without compensation. The members of the City of Gladstone neighborhood commission shall elect (annually) a chair, vice chair, and secretary. The mayor may appoint up to three advisors.

(Ord. No. 4.032, § 1, 6-11-2007; Ord. No. 4.046, § 7, 9-24-2007; Ord. No. 4.460, § 2, 2-11-2019)

Sec. 1.110.410. Appointment of officers.

The members of the neighborhood commission shall elect a chairman, vice-chairman, and secretary to serve for a term of one year each. The chairman and other officers may serve up to three consecutive terms in a specific office, and thereafter, may be re-elected to their previous position after a lapse of one year.

(Ord. No. 4.046, § 7, 9-24-2007)

Sec. 1.110.420. Terms.

The nine members of the City of Gladstone neighborhood commission shall serve terms as follows:

- (1) GEBC's representative shall serve on the City of Gladstone neighborhood commission through the elected term as chair of GEBC; and
- (2) Executive director of GEBC's neighbors helping neighbors shall serve on the City of Gladstone neighborhood commission through the elected term as executive director of GEBC's neighbors helping neighbors; and
- (3) The six neighborhood organization officers, board members, or appointed representative shall serve terms of three years each; and
- (4) The local business owner shall serve terms of three years.

(Ord. No. 4.032, § 1, 6-11-2007; Ord. No. 4.460, § 2, 2-11-2019)

Sec. 1.110.430. Duties of City of Gladstone neighborhood commission.

The City of Gladstone neighborhood commission shall consider ways and means to enhance the lives of residents of the city by facilitating and encouraging community awareness of and participation in neighborhood activities. The City of Gladstone neighborhood commission shall explore opportunities to represent all Gladstone neighborhoods; to share strategies and resources for improving the self-sustaining characteristics of healthy neighborhoods; to review and provide input concerning local policy, code enforcement policies and procedures, community issues, diversity, housing, and inclusion that affect neighborhoods; to encourage the formation of new neighborhoods organizations and provide support to existing organized neighborhoods; to develop and distribute technical resources, information and financial support to all organized neighborhoods within the city.

The City of Gladstone neighborhood commission shall develop a recommended annual work plan that contains goals and objectives in support of neighborhood activities. Such annual work plan shall be in writing and presented to the city council. Upon city council approval of an annual work plan, the City of Gladstone neighborhood commission shall provide an annual report concerning attainment of approved goals and objectives. The annual work plan shall include, at minimum, activities that are consistent with the approved mission statement, fundraising, long range plan and planned projects consistent with the duties of the City of Gladstone neighborhood commission.

(Ord. No. 4.032, § 1, 6-11-2007; Ord. No. 4.460, § 2, 2-11-2019)

Sec. 1.110.440. Meetings.

The City of Gladstone neighborhood commission will develop a meeting schedule, but shall generally meet monthly. All meetings of the City of Gladstone neighborhood commission shall be open to the public.

(Ord. No. 4.032, § 1, 6-11-2007; Ord. No. 4.460, § 2, 2-11-2019)

Sec. 1.110.450. Voting.

A simple majority of the City of Gladstone neighborhood commission shall constitute a quorum at any meeting. No action shall be taken unless a quorum is present. A simple majority of the City of Gladstone neighborhood commission members present shall be required to pass any issue.

(Ord. No. 4.032, § 1, 6-11-2007; Ord. No. 4.460, § 2, 2-11-2019)

CHAPTER 115. MEETINGS AND RECORDS

Sec. 1.115.010. 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:

Closed meeting, closed record or closed vote means any meeting, record, or vote closed to the public.

State law reference(s)—Similar provisions, RSMo 610.010(1).

Public governmental body means any legislative, administrative or governmental entity created by the constitution or statutes of this state, by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity, or by executive order, including:

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- (1) Any body, agency, board, bureau, council, commission, committee, board of regents or board of curators or any other governing body of any institution of higher education, including a community college, which is supported in whole or in part from state funds;
 - (2) Any advisory committee or commission appointed by the governor by executive order;
 - (3) Any department or division of the state, of any political subdivision of the state, of any county or of any municipal government, school district or special purpose district including but not limited to sewer districts, water districts, and other subdistricts of any political subdivision;
 - (4) Any other legislative or administrative governmental deliberative body under the direction of three or more elected or appointed members having rulemaking or quasijudicial power;
 - (5) Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above-named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the public governmental body's governing board or its chief administrative officer, policy or policy revisions or expenditures of public funds including, but not limited to, entities created to advise bi-state taxing districts regarding the expenditure of public funds, or any policy advisory body, policy advisory committee or policy advisory group appointed by a president, chancellor or chief executive officer of any college or university system or individual institution at the direction of the governing body of such institution which is supported in whole or in part with state funds for the specific purpose of recommending directly to the public governmental body's governing board or the president, chancellor or chief executive officer policy, policy revisions or expenditures of public funds provided, however, the staff of the college or university president, chancellor or chief executive officer shall not constitute such a policy advisory committee. The custodian of the records of any public governmental body shall maintain a list of the policy advisory committees described in this subdivision; and
 - (6) Any quasipublic governmental body. The term "quasipublic governmental body" means any person, corporation or partnership organized or authorized to do business in this state pursuant to the provisions of RSMo chs. 352, 353, or 355, unincorporated association which either:
 - a. Has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or
 - b. Performs a public function as evidenced by a statutorily based capacity to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain, or the contracting of leaseback agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from a public governmental body, but only to the extent that a meeting, record, or vote relates to such appropriation;

State law reference(s)—Similar provisions, RSMo 610.010(4).

Public meeting means any meeting of a public governmental body subject to RSMo 610.010—610.030 at which any public business is discussed, decided, or public policy formulated, whether corporeal or by means of communication equipment. The term "public meeting" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this chapter, but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one location in order to conduct public business.

State law reference(s)—Similar provisions, RSMo 610.010(5).

Public record means any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body by a consultant or other professional service paid for in whole or in part by public funds; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of 18 years and by the parents, guardian or other custodian and the student if the student is over the age of 18 years. The term "public record" shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of such body, unless such records are retained by the public governmental body or presented at a public meeting.

State law reference(s)—Similar provisions, RSMo 610.010(6).

Public vote means any vote cast at any public meeting of any public governmental body.

Cross reference(s)—Definitions and rules of construction generally, § 1.100.020Cross reference(s)—.

State law reference(s)—Similar provisions, RSMo 610.010(7).

(Code 1974, § 2-79)

Sec. 1.115.020. Closed meetings and closed records authorized; exceptions.

Except to the extent disclosure is otherwise required by law, and subject to additional actions on the part of the city, all meetings, records and votes of the city or its governmental bodies, are closed to the public to the extent they relate to the following:

- (1) Legal actions, causes of action or litigation involving the city or any public governmental body of the city and any confidential or privileged communications between the city and its public governmental bodies or their representatives and their attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving the city or its public governmental bodies or any agent or entity representing their interests or acting on their behalf or with its authority, including any insurance company acting on behalf of the city or its public governmental bodies as their insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of RSMo 610.011, however, the amount of any moneys paid by, or on behalf of, the city or its public governmental bodies shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;
- (2) Leasing, purchase or sale of real estate by the city or its public governmental bodies where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by the city or its public governmental bodies shall be made public within 72 hours after execution of the lease, purchase or sale of the real estate;
- (3) Hiring, firing, disciplining or promoting of particular employees by the city or its public governmental bodies when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by the city or its public governmental bodies, to hire, fire, promote or discipline an employee of the city or its public governmental bodies must be made available with a record of how each member voted to the public within 72 hours of the close of the meeting where

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such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the 72 period before such decision is made available to the public. As used in this subsection, the term "personal information" means information relating to the performance or merit of individual employees;

- (4) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;
- (5) Preparation, including any discussions or work product, on behalf of a the city or its public governmental bodies or its representatives for negotiations with employee groups;
- (6) Software codes for electronic data processing and documentation thereof;
- (7) Specifications for competitive bidding, until either the specifications are officially approved by the city or its public governmental bodies or the specifications are published for bid;
- (8) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;
- (9) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such;
- (10) Records which are protected from disclosure by law;
- (11) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;
- (12) Records relating to municipal hot lines established for the reporting of abuse and wrongdoing;
- (13) Confidential or privileged communications between the city or its public governmental bodies and its auditor, including all auditor work product; and
- (14) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again.

(Code 1974, § 2-80)

State law reference(s)—Similar provisions, RSMo 610.021.

Sec. 1.115.030. Custodian appointed.

The city clerk is hereby appointed as the custodian of records, and is to be responsible for the maintenance of all records of the city and all records of the city's public governmental bodies. The custodian is authorized to appoint assistant custodians to aid in the performance of the custodian's duties, as established by state law, city ordinance, and city policies which govern access to, and maintenance of, public records, meetings or votes.

(Code 1974, § 2-81)

Sec. 1.115.040. Reasonable fees established for providing access to or copies of public records.

Should a person authorized by state law to obtain access to city records request access to or photocopies of public records, there is hereby established a search and photocopying fee as specified in a schedule of fees and

charges to be paid to the city, all in accordance with state law. All moneys received by the city and its public governmental bodies will be paid over to the city treasurer to be deposited in the city's general fund.

(Code 1974, § 2-82)

Sec. 1.115.050. Written policy statement authorized.

The city manager, the assistant city manager, the city clerk, the city attorney, and other city officials are hereby authorized to draft and implement a written policy concerning the provision of information on records, meetings, and votes, in compliance with state law. Such written policy may be implemented by such city officials and reviewed by the city council from time to time.

(Code 1974, § 2-83)

CHAPTER 125. MUNICIPAL COURT

Sec. 1.125.010. Statutes and rules governing.

All preliminary proceedings and all prosecutions, actions and proceedings in or before the municipal court or municipal judge shall be governed by the Revised Statutes of Missouri and the rules of the supreme court of the state insofar as such statutes and rules relate to municipal courts and municipal judges in cities of the third class; and in the organization of the court, the assumption of jurisdiction, the exercise of power and authority and in the discharge of duty the municipal court and municipal judge of this city shall conform to the requirements of such statutes and rules and shall require all personnel of the court and all persons subject to the jurisdiction or orders of the municipal court and municipal judge to do likewise.

(Code 1974, § 19-1)

Sec. 1.125.020. Traffic school.

The ~~director of public safety~~Chief of Police of the city may contract with the National Safety Council or other public, semipublic or private, eleemosynary agency, corporation or organization for the establishment of such traffic school, or for the use by offenders in the city and the municipal court of the city of a traffic school already in existence or to be established whether the traffic school is located within the city or elsewhere, and in the event that such traffic school is contracted for and used by the city, then all offenders committed, sentenced or ordered to attend such school shall be required, and it shall be deemed a part of the sentence, order or commitment that such offender shall pay such registration fee to the agency, corporation or organization as is usually required by the agency, corporation or organization.

(Code 1974, § 19-2)

Sec. 1.125.030. Municipal court—Established.

There is hereby established in this city a municipal court to be known as the "Gladstone Municipal Court, a division of the seventh judicial circuit court of the State of Missouri." This court is a continuation of the police court of the city as previously established, and in this chapter is termed "the municipal court."

(Code 1974, § 19-3)

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Sec. 1.125.040. Same—Jurisdiction.

The jurisdiction of the municipal court shall extend to all cases involving alleged violations of the ordinances of the city and this Code.

(Code 1974, § 19-4)

Sec. 1.125.050. Municipal judge; selection; compensation.

The judge of the municipal court shall be known as a municipal judge of the seventh judicial circuit court, and shall be appointed to this position by the city manager of this city, for a term as specified in section 1.125.070. The rate of compensation for the municipal judge shall be established by the city council in the current salary ordinances.

(Code 1974, § 19-5)

Sec. 1.125.060. Assistant municipal judges.

- (a) In addition to the municipal judge provided for in section 1.125.050, the city manager shall appoint such assistant municipal judges as are necessary to adjudicate violations of the city's ordinances filed with the city's municipal court, and shall establish the level of compensation for each such position.
- (b) One assistant municipal judge shall be principally assigned to the housing court to adjudicate city code violations assigned to that docket of the municipal court.
- (c) The assistant municipal judges shall serve terms as provided for in section 1.125.070. The city manager may appoint the assistant municipal judges to as many successive terms as he deems appropriate.
- (d) The qualifications of the assistant municipal judges shall be the same as the qualifications required of the municipal judge, set out in section 1.125.080.

(Code 1974, § 19-5.1; Ord. No. 4.113, § 2, 7-13-2009)

Sec. 1.125.070. Term of office of municipal judge.

The municipal judge shall be selected for a period of at least two years.

(Code 1974, § 19-6)

Sec. 1.125.080. Qualifications of municipal judge.

- (a) A municipal judge shall possess the following qualifications before such judge shall take office:
 - (1) A municipal judge must be a licensed attorney, admitted to practice law within the state.
 - (2) A municipal judge must be a resident of the state and the city.
 - (3) A municipal judge must be between the ages of 21 and 75 years.
 - (4) A municipal judge may not hold any other office with the city government, but may serve as municipal judge for another municipality.
- (b) The municipal judge shall be considered to be holding a part-time position, and as such may accept (within the restrictions of the Code of Judicial Conduct, Missouri Supreme Court Rule 2) other employment.

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(Code 1974, § 19-7)

Sec. 1.125.090. General powers and duties of municipal judge.

- (a) The municipal judge shall be and is hereby authorized to:
- (1) Administer oaths and enforce due obedience to all orders, rules and judgments made by such judge, and fine and imprison for contempt committed before the judge while holding court in the same manner and to the same extent as a circuit judge.
 - (2) Commute the term of any sentence, stay execution of any fine or sentence, suspend any fine or sentence and make such other orders as the municipal judge deems necessary relative to any matter that may be pending in the municipal court.
 - (3) Make and adopt such rules of practice and procedure as are necessary to implement and carry out the provisions of this chapter, and to make and adopt such rules of practice and procedure as are necessary to hear and decide matters pending before the municipal court and to implement and carry out the provisions of the state rules of practice and procedure in municipal and traffic courts.
- (b) The municipal judge shall have such other powers, duties and privileges as are or may be prescribed by the laws of this state, this Code or other ordinances of this city.

(Code 1974, § 19-8)

Sec. 1.125.100. Vacation of office of municipal judge.

The municipal judge shall vacate such office under the following circumstances:

- (1) Upon removal from office by the state commission on the retirement, removal and discipline of judges, as provided in Missouri Supreme Court Rule 12;
- (2) Upon attaining of the municipal judge's 75th birthday;
- (3) If the municipal judge should lose the license to practice law or be suspended from the practice of law within the state;
- (4) Upon submitting a written resignation to the city council.

(Code 1974, § 19-9)

Sec. 1.125.110. Temporary or permanent vacation of office of municipal judge.

If a municipal judge is absent, sick or disqualified from acting, the mayor may designate some competent, eligible person to act as municipal judge until such absence or disqualification shall cease; provided that should a vacancy occur in the office of an appointed municipal judge, then the city manager shall appoint a new municipal judge to fill such vacancy.

(Code 1974, § 19-10)

State law reference(s)—Similar provisions, RSMo 479.230.

Sec. 1.125.120. Superintending authority.

The municipal court of the city shall be subject to the rules of the circuit court of which it is a part, and to the rules of the state supreme court. The municipal court shall be subject to the general administrative authority of the presiding judge of the circuit court, and the municipal judge and municipal court personnel shall obey the directives of the presiding judge of the circuit court.

(Code 1974, § 19-11)

Sec. 1.125.130. Docket and court records.

The municipal judge shall be a conservator of the peace. The municipal judge shall keep a docket in which such judge shall enter every case commenced before such judge and the proceedings therein, and the municipal judge shall keep such other records as may be required. Such docket and records shall be records of the circuit court of the county. The municipal judge shall deliver the docket and records of the municipal court, and all books and papers pertaining to such office, to the successor in such office, or to the presiding judge of the circuit court.

(Code 1974, § 19-12)

Sec. 1.125.140. Issuance and execution of warrants.

All warrants issued by the municipal judge shall be directed to the ~~director of public safety~~Chief of Police or any other ~~police~~~~public safety~~ officer of the city. The warrants shall be executed by the ~~director of public safety~~Chief of Police, or any city ~~public safety~~police officer, 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, shall be served in other counties, as provided for in warrants in criminal cases.

(Code 1974, § 19-13)

State law reference(s)—Similar provisions, RSMo 479.100.

Sec. 1.125.150. Arrests without warrants.

The ~~director of public safety~~Chief of Police or any other ~~public safety~~police officer of the city may, without a warrant, make arrests of any person who commits an offense in the presence of the ~~director of public safety~~Chief of Police or any other ~~public safety~~police officer, but such officers shall, before the trial, file a written complaint with the municipal court.

(Code 1974, § 19-14)

State law reference(s)—Similar provisions, RSMo 479.110.

Sec. 1.125.160. Jury trials.

Any person charged with a violation of a municipal ordinance of the city shall be entitled to a trial by jury, as in prosecutions for misdemeanors before an associate circuit judge. Whenever a defendant accused of a violation of a municipal ordinance demands trial by jury, the municipal judge shall certify the case to the presiding judge of the circuit court for reassignment.

(Code 1974, § 19-15)

State law reference(s)—Similar provisions, RSMo 479.130, 479.150.

Sec. 1.125.170. Duties of prosecuting attorney.

It shall be the duty of the attorneys designated by the city manager as city attorney and assistant city attorney to prosecute the violations of the city's ordinances before the municipal judge or before any circuit judge or associate circuit judge hearing violations of the city's ordinances. The city attorney or the assistant city attorney shall, if requested by the city manager, attend the meetings of the city council when the city counselor is unavailable. The city attorney or the assistant city attorney shall make written recommendations and draft bills and ordinances in connection with the proper administration of justice, related to any violation of the Code of the city or other ordinances. The salary of the city attorney and the assistant city attorney and their expenses incurred in such prosecution shall be paid by the city as set forth in the current salary ordinance and shall not be contingent upon the result in any case.

(Code 1974, § 19-16)

State law reference(s)—Similar provisions, RSMo 479.120.

Sec. 1.125.180. Summoning of witnesses.

It shall be the duty of the municipal judge to summon all persons whose testimony may be deemed essential as witnesses at 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. When a trial shall be continued by a municipal judge, it shall not be necessary to summon any witness who may be present at the continuance; but the municipal judge shall orally notify such witnesses as either party may require to attend before such judge on the day set for trial to testify in the case, and enter the names of such witnesses on such judge's docket, which oral notice shall be valid as a summons.

(Code 1974, § 19-17)

State law reference(s)—Similar provisions, RSMo 479.160.

Sec. 1.125.190. Disqualification of municipal judge from hearing a particular case.

A municipal judge may be disqualified to hear any case in which the judge is in anyway interested or if, before the trial is commenced, the defendant or the city attorney files an affidavit that the defendant or the city, as the case may be, cannot have a fair and impartial trial by reason of the interest or prejudice of the judge. Neither the defendant nor the municipality shall be entitled to file more than one affidavit or disqualification in the same case.

(Code 1974, § 19-18)

State law reference(s)—Similar provisions, RSMo 479.220.

Sec. 1.125.200. Transfer of complaint to associate circuit judge.

If, in the progress of any trial before a municipal judge, it shall appear to the municipal judge that the accused ought to be put on trial for an offense against the criminal laws of the state and not cognizable before such judge as municipal judge, the municipal judge shall immediately stop all further proceedings as municipal judge and cause the complaint to be made before some associate circuit judge within the county.

(Code 1974, § 19-19)

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State law reference(s)—Similar provisions, RSMo 479.170.

Sec. 1.125.210. Jailing of defendants.

- (a) If, in the opinion of the municipal judge, the city has no suitable and safe place of confinement, the municipal judge may commit the defendant to the county jail or another correctional facility. The city shall pay the board of such prisoner at the same rate as may now or hereafter be allowed for the keeping of such prisoner in custody in the city or county jail.
- (b) The municipal judge may not sentence a defendant to confinement for failure to pay a fine for a minor traffic violation or municipal ordinance violation, as defined in section 1.140.100(d)(1) and 1.140.100(e)(1) of this Code and RSMo 479.350, unless such nonpayment violates terms of probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the municipal judge.

(Code 1974, § 19-20; Ord. No. 4.364 , § 2, 8-22-2016)

State law reference(s)—Similar provisions, RSMo 479.180.

Sec. 1.125.220. Parole and probation.

- (a) Any judge hearing violations of municipal ordinances may, when in such judge's 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, such person shall be given a certificate explicitly stating the conditions on which such person 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, or purposes, as determined by the judge.
- (c) A person may refuse probation conditioned on the performance of free work. If such person 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, person, organization, or agency, or employee of a 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 such person 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 of the provisions of RSMo ch. 288.
- (d) The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

(Code 1974, § 19-21)

State law reference(s)—Similar provisions, RSMo 479.190.

Sec. 1.125.230. Installment payment of fines.

When a fine is assessed for violation of an ordinance, it shall be within the discretion of the municipal judge assessing the fine to provide for the payment of a fine on an installment basis under such terms and conditions as the municipal judge may deem appropriate. Failure to pay any fine or installment may, upon the judge finding the defendant to be nonindigent, result in the incarceration of the violator.

(Code 1974, § 19-22)

State law reference(s)—Similar provisions, RSMo 479.240.

Sec. 1.125.240. Right of appeal.

In all cases tried before the municipal court, except where there has been a plea of guilty or where the case has been tried with a jury, the defendant shall have a right of trial de novo before a circuit judge, or on assignment before an associate judge. An application for a trial de novo shall be filed within ten days after judgment and shall be filed in such form and perfected in such manner as provided by state supreme court rules. An additional fee of \$20.00 shall be assessed as court costs upon the filing of an application for a trial de novo.

(Code 1974, § 19-23)

State law reference(s)—Similar provisions, RSMo 479.200.

Sec. 1.125.250. Appeal from jury verdicts.

In all cases in which a jury trial has been demanded, a record of the proceedings shall be made, and appeals may be had upon that record to the appropriate appellate court.

(Code 1974, § 19-24)

State law reference(s)—Similar provisions, RSMo 479.200.

Sec. 1.125.260. Breach of recognizance.

In the case of a breach of any recognizance entered into before a municipal judge or an associate circuit judge hearing a municipal ordinance violation case, the recognizance shall be deemed forfeited and the judge shall cause the case to be prosecuted against the principal and surety, or either of them, in the name of the municipality as plaintiff. Such action shall be prosecuted before a circuit judge or associate circuit judge, and in event of cases caused to be prosecuted by a municipal judge, shall be on the transcript of the proceedings before the municipal judge. All monies recovered in such action shall be paid over to the municipal treasury to the general revenue fund of the municipality.

(Code 1974, § 19-25)

State law reference(s)—Similar provisions, RSMo 479.210.

Sec. 1.125.270. Duties of the clerk of municipal court.

There is hereby established a municipal court clerk of the city municipal court. The duties of the municipal court clerk shall be as follows:

- (1) To collect such fines for violations for such offenses as may be described, and the court costs therefor;

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- (2) To take oaths and affirmations;
 - (3) To accept signed complaints and allow the complaints to be signed and sworn to, or affirmed, before the municipal court clerk;
 - (4) To sign and issue subpoenas requiring the attendance of witnesses, and sign and issue subpoenas duces tecum; and accept the appearance, waiver of trial, plea of guilty and payment of fines and costs in traffic violations bureau cases, or as directed by the municipal judge, and generally act as the violation clerk of the traffic violations bureau; and perform all other duties as provided for by ordinance, by the rules adopted by the municipal judge and by the state rules of practice and procedure in municipal and traffic courts and by statute; and maintain, properly certified by the city clerk, a complete copy of the Code of the city which shall constitute prima facie evidence of such ordinances before the court.

(Code 1974, § 19-26)

Sec. 1.125.280. Traffic violations bureau.

The municipal judge shall establish a traffic violations bureau as provided for by the state statutes to be under the supervision of the municipal court clerk. The city shall provide all expenses incident to the operation of the traffic violations bureau.

(Code 1974, § 19-27)

State law reference(s)—Similar provisions, RSMo 479.050.

Sec. 1.125.290. Report to city council required; content.

The municipal judge shall cause to be prepared within the first five days of every month a report indicating the following: a list of all cases heard or tried before the court during the preceding month, giving in each case the name of the defendant, the fine imposed (if any), the amount of costs, the names of the defendants committed and the cases where there was an application for trial de novo filed. The report shall be prepared under oath by the municipal court clerk or the municipal judge. This report will be filed with the city clerk who shall thereafter forward the report to the city council for examination at its first session thereafter. The municipal court shall, within the five days after the first of the month, pay to the municipal treasurer the full amount of all fines collected during the preceding month, if they have not previously been paid.

(Code 1974, § 19-28)

Sec. 1.125.300. Court costs generally; amount; disposition of proceeds.

- (a) In addition to any fine that may be imposed by the municipal judge, the municipal judge is hereby authorized and empowered to assess as court costs a sum not to exceed \$12.00 against each person tried and convicted before the municipal judge; or in each case wherein a plea of guilty is entered before the municipal judge, the complainant moves for and is granted the dismissal of the complaint prior to hearing or the complainant fails to prosecute. Additionally, the municipal judge may assess up to \$2.00 as additional court costs, over and above the limits otherwise provided in this section, for each court proceeding filed for violations of the ordinances of this city; provided that no such fee shall be collected for nonmoving traffic violations, violations of fish and game regulations, and when the proceeding or defendant has been dismissed by the court. All such additional fees collected by the clerk of the municipal court shall be transmitted monthly to the city collector and shall be used for training law enforcement officers. The municipal court judge may also

assess such other costs as may be deemed necessary, including, but not limited to, costs for warrants, commitments, summons, confinement, mileage and witness fees.

- (b) Upon a plea of guilty or a finding of guilty for violation of an ordinance involving an alcohol or drug-related traffic offense, the court may, in addition to imposition of any penalties provided by law, order the convicted person to reimburse the city for the costs associated with such arrest. Such costs shall include the reasonable cost of making the arrest, including the cost of any chemical test made to determine the alcohol or drug content of the person's blood, and the costs of processing, charging, booking and holding such person in custody. The ~~department of public safety~~police department shall establish a schedule of such costs and shall request recoupment of such costs on a form approved by the municipal court. The municipal court may order the costs reduced if it determines that the costs are excessive. The costs set forth in this subsection shall be calculated as additional court costs and shall be collected by the municipal court in the same manner as other costs and fines.
- (c) Any person who violates an ordinance as an operator of a motorcycle or motortricycle shall be assessed additional court costs of \$5.00. Any motor vehicle operator who violates an ordinance where the violation involves a motorcycle or motortricycle or where the operator causes an accident involving a motorcycle or motortricycle shall be assessed additional court costs of \$5.00. Each court cost assessed under this subsection shall be doubled if the operator at fault violated any state law or ordinance relating to the consumption of alcohol. The costs set forth in this subsection shall be collected by the municipal court in the same manner as other costs and fines and shall be paid into the state treasury to the credit of the motorcycle safety trust fund.

(Code 1974, § 19-29; Ord. No. 3.412, § 1, 10-10-1994; Ord. No. 3.485, § 1, 12-18-1995)

Sec. 1.125.310. Additional court cost upon conviction of municipal ordinance violation.

- (a) *Additional court cost authorized.* An additional court cost not to exceed \$2.00 per case may be assessed by the municipal judge of the municipal court upon a plea of guilt, finding of guilt or conviction for violation of any municipal ordinance contained in the Code of the city, except in any case where the defendant is found by the judge of the municipal court to be indigent and unable to pay the cost.
- (b) *Collection and disbursement of funds.* Such costs shall be collected by the court clerk and disbursed to the city at least monthly. The city shall use such funds only for the purpose of providing operating expenses for shelters for battered persons as defined in RSMo 455.200 to 455.230. Any shelter which meets the qualifications contained in RSMo 455.200 to 455.230 may make an application for funding to the city in a form which substantially complies with the provisions of RSMo 455.215. The city will accept applications for funding from a shelter on or before the first day of October of the year preceding the calendar year for which the funding is desired. Upon receipt of such application, the city manager shall determine whether or not such shelter qualifies for funding. In the event more than one application for funds is received, funds shall be allocated between the qualified shelters by the city council. Funds allocated to a shelter pursuant to this section shall be paid to the shelter twice annually, on the first day of January and the first day of July of the year following the year in which an application is filed.

(Ord. No. 3.413, §§ 1, 2, 10-10-1994; Ord. No. 3.734, § 1, 11-22-1999)

Sec. 1.125.320. Court cost for funding of peace officer standards and training commission fund.

- (a) The judge of the municipal court of the city shall be authorized to impose an additional court cost of \$1.00 for all violations of the general criminal laws of the state, including infractions, or violations of city municipal

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ordinances, provided that no such additional court cost fee shall be assessed for nonmoving traffic violations, and no such fee shall be assessed for violations of fish and game regulations, and no such fee shall be collected in any proceeding in any court when the proceeding or defendant has been dismissed by the court.

- (b) All monies collected from these court costs shall be submitted by the court clerk to the treasurer of the state to the credit of the peace officer standards and training commission fund created in RSMo 590.178 in compliance with the procedures utilized by the court clerk in submitting funds to the state.

(Ord. No. 3.484, §§ 1, 2, 12-18-1995)

Sec. 1.125.330. Court cost for funding of crime victims compensation fund.

- (a) An additional court cost of \$7.50 per case shall be assessed by the municipal judge of the municipal court upon a plea of guilt, finding of guilt, or conviction for violation of any municipal ordinance contained in the Code of the city, for remittance to the state department of revenue for the crime victims compensation fund pursuant to RSMo 595.045, except in any case where the defendant is found by the judge of the court to be indigent and unable to pay the cost.
- (b) Of the monies collected as additional court costs for the crime victims compensation fund in each municipal court case, the sum of \$7.13 shall be submitted by the court clerk to the state department of revenue to be applied to the crime victims compensation fund established under RSMo 595.045, and \$0.37 shall be retained in the city's general fund.

(Ord. No. 3.806, §§ 1, 2, 8-27-2001)

Sec. 1.125.340. Court cost for funding of spinal cord injury fund.

- (a) An additional court cost judgment of \$25.00 per case shall be assessed by the municipal judge of the municipal court against any person convicted of a violation of any municipal ordinance contained in the Code of the city, for an intoxication-related offense as defined under RSMo 577.023, for the spinal cord injury fund pursuant to RSMo 304.027.
- (b) The monies collected as additional court costs for the spinal cord injury fund shall be paid by the court clerk into the state treasury to the credit of the spinal cord injury fund established under RSMo 304.027.

(Ord. No. 3.823, §§ 1, 2, 2-11-2002)

Sec. 1.125.350. Assessment of court costs against prosecuting witness.

The costs of any action may be assessed against the prosecuting witness and judgment be rendered against the prosecuting witness that such witness pay the judgment, and stand committed until paid, in any case where it appears to the satisfaction of the municipal judge that the prosecution was commenced without probable cause and from malicious motives.

(Code 1974, § 19-30)

Sec. 1.125.360. City clerk to file chapter with judge of circuit court.

The city clerk shall file a certified copy of this chapter with the presiding judge of the circuit court of the county, the filing to serve as official notification of the city's intention to retain its municipal court.

(Code 1974, § 19-31)

Sec. 1.125.370. Court cost for funding of inmate security fund.

- (a) *Additional court cost authorized.* Additional court costs of \$2.00 per case shall be assessed by the municipal judge of the Gladstone Municipal Court upon a plea of guilt, finding of guilt, or conviction for violation of any municipal ordinance contained in this Code for funding of the "inmate security fund" pursuant to RSMo 488.5026.
- (b) *Collection and disbursement of funds.* That of the monies collected as additional court costs for the "inmate security fund" in each municipal court case, shall be placed in a separate fund to be utilized by the city's ~~public safety~~ police department to defray a portion of the costs of the biometric identification process and inmate housing costs.

(Ord. No. 4.086, §§ 1, 2, 10-13-2008)

Sec. 1.125.380. Court cost for sheriff's retirement fund.

- (a) *Additional court cost authorized.* An additional court cost judgment of \$3.00 per case shall be assessed by the municipal judge of the Gladstone Municipal Court against any person convicted of a violation of any municipal ordinance contained in the Code of the City of Gladstone, Missouri, for the sheriffs' retirement fund pursuant to RSMo 57.955.
- (b) *Collection and disbursement of funds.* The monies collected as additional court costs for the sheriffs' retirement fund shall be paid by the court clerk to the credit of the sheriffs' retirement fund established under RSMo 57.955.

(Ord. No. 4.251, §§ 1, 2, 9-23-2013)

CHAPTER 130. PUBLIC SAFETY¹⁷

¹⁷Cross reference(s)—Offenses against public peace and safety, § 3.130.010Cross reference(s)— et seq.

State law reference(s)—Police in third class cities generally, RSMo 85.541—85.561; authority of cities to organize fire companies, RSMo 77.190.

ARTICLE 1. IN GENERAL

Secs. 1.130.010—1.130.100. Reserved.

ARTICLE 2. DEPARTMENT

Division I. Generally

Sec. 1.130.110. Created.

There is hereby created and established the Police Department ~~department of public safety~~ for the city.

There is hereby created and established the Fire Department for the city.

(Code 1974, § 24-1)

Sec. 1.130.120. Powers, duties and responsibilities generally.

The Police Department ~~department of public safety~~ shall perform all of the law enforcement duties and responsibilities ~~and of both the police and fire departments of the city, and~~ shall have all of the powers, duties and responsibilities conferred upon ~~the police and fire~~ departments by virtue of this Code or other ordinances of the city, and by law, and shall have such other and additional powers, duties and responsibilities as may be lawfully imposed upon it by any administrative directive, resolution, rule, ordinance or law.

The Fire Department shall perform all of the fire department duties and responsibilities and shall have all of the powers, duties and responsibilities conferred upon fire departments by virtue of this Code or other ordinances of the city, and by law, and shall have such other and additional powers, duties and responsibilities as may be lawfully imposed upon it by any administrative directive, resolution, rule, ordinance or law.

(Code 1974, § 24-2)

Sec. 1.130.130. Police personnel board and fire board abolished.

The police personnel board and fire board are hereby abolished.

(Code 1974, § 24-3)

~~Sec. 1.130.140. Distinction between police officer and firefighter abolished; duties generally of public safety officers.~~

~~The distinction, as it has heretofore existed, between police officers and firefighters in the city is hereby abolished, and the duties and responsibilities of the police officers and firefighters are hereby combined in the persons of public safety officers. Such public safety officers shall perform such duties and responsibilities as shall~~

~~be conferred upon them from time to time by the director of public safety of the city, provided that in addition thereto, such public safety officers shall have and perform such duties as are imposed upon policemen and firemen by this Code or other ordinances of the city and by law.~~

~~(Code 1974, § 24-4)~~

~~State law reference(s)—Powers and duties of police officers in third class cities, RSMo 85.561.~~

Sec. 1.130.150. Authority of officers to act in emergency situations outside city.

- (a) For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

Municipal ~~police-public safety~~ officer means any municipal ~~policepublic safety~~ officer of the city who has completed the basic police training program as established by RSMo ch. 590.

Emergency situation means any situation in which the municipal ~~police-public safety~~ 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 the municipal ~~policepublic safety~~ officer's response is reasonably necessary to prevent or end such emergency situation or mitigate the likelihood of injury involved in such emergency situation.

Response means to take any and all action which the municipal ~~policepublic safety~~ officer may lawfully take as if exercising powers within the municipal ~~policepublic safety~~ officer's jurisdiction.

- (b) A municipal ~~policepublic safety~~ officer of the city shall have the authority in accordance with departmental procedures to respond to an emergency situation outside the boundaries of the city while on duty.
- (c) The authority contained in this section shall permit the response by one or more ~~municipal police-municipal public safety~~ officers to an emergency situation within any incorporated area whose corporate limits are common with the city. The ~~Chief of Policepublic safety director~~ or their ~~director's~~ designee may in their discretion authorize additional response beyond this designated area.
- (d) Municipal ~~policepublic safety~~ officers shall not leave the city inhabitants with inadequate police protection or be absent for extended periods of time, but the response shall be in aid of, and to assist, the authorities of the county or the municipality in which the emergency situation is located. No municipal ~~policepublic safety~~ officer of the city shall be authorized to make an arrest by reason of this authorization to respond, except for violations of state law, nor shall the municipal ~~policepublic safety~~ officer be authorized to use his/her weapon except to respond to a threat of serious physical harm to such officer or others or to make an arrest for a felony violation involving the infliction or threatened infliction of serious physical harm.
- (e) Every response to an emergency situation outside the city's boundaries shall be reported by the municipal ~~policepublic safety~~ officer to the ~~Chief of Policepublic safety director~~ who, in turn, shall notify the city manager with a written explanation for the reason for such response. A copy of this notification shall be kept on permanent file with the city clerk.

(Ord. No. 2.743, §§ 1—5, 11-23-1987)

Sec. 1.130.160. ~~Public safety~~Police officers—Governed by personnel ordinance.

All ~~policepublic safety~~ officers shall be governed by the provisions of the personnel ordinance of the city.

(Code 1974, § 24-5)

Sec. 1.130.170. Same—Benefits, etc., under employees' retirement plan.

All ~~police~~public safety officers of the city shall be entitled to all of the rights, privileges and benefits of the employees' retirement plan of the city.

(Code 1974, § 24-6)

Sec. 1.130.180. False impersonation.

A person commits the crime offense of false impersonation if such person:

- (1) Falsely represents oneself to be a public servant with purpose to induce another to submit to such person's pretended official authority or to rely upon such person's pretended official acts, and:
 - a. Performs an act in that pretended capacity; or
 - b. Causes another to act in reliance upon such person's pretended official authority; or
- (2) Falsely represents oneself 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 1974, § 24-6.1)

State law reference(s)—Similar provisions, RSMo 575.120(1).

~~Sec. 1.130.190. Other provisions pertaining to police and fire departments deemed to refer to public safety department.~~

~~All provisions of this Code, ordinances or agreements conferring powers, duties and responsibilities on the police department or fire department are hereby deemed to confer such powers, duties and responsibilities on the public safety department.~~

~~(Code 1974, § 24-7)~~

Division II. Chief of Police and Fire ChiefDirector¹⁸

¹⁸Cross reference(s)—Officers and employees, § 1.105.330Cross reference(s)— et seq.

Sec. 1.130.200. Office established.

There is hereby established the office of ~~Chief of Police~~director of public safety.

There is hereby established the office of Fire Chief.

(Code 1974, § 24-8)

Sec. 1.130.210. Duties generally; ~~terms "chief of police" and "chief of fire department"~~ ~~included in term "director of public safety."~~

~~(a) (a) —The Chief of Police shall exercise and have all of the duties of the chief of police as such may be imposed or authorized by law.~~

~~(b) The Fire Chief shall exercise and have all of the duties of the fire chief as such may be imposed or authorized by law.~~

~~The director of public safety shall be the chief of police and the chief of the fire department and shall exercise and have all of the duties of the chief of police and chief of the fire department as such may be imposed or authorized by law.~~

~~(b) —The term and office of both the chief of police and the chief of the fire department, as used in any law or ordinance of the city, shall mean the director of public safety.~~

~~(Code 1974, § 24-9)~~

~~Sec. 1.130.220. Authority to establish certain rules and regulations.~~

~~The director of public safety is authorized to make and implement rules and regulations in accordance and compliance with the laws and ordinances governing the police department and the fire department of the city, to provide for the cross training, mutual cooperation, integration and consolidation of the police department and the fire department, all to implement the purposes of this chapter.~~

~~(Code 1974, § 24-10)~~

Sec. 1.130.230. Selection and appointment.

The ~~Chief of Police and the Fire Chief~~director of public safety shall be selected and appointed by and serve at the pleasure of the city manager.

(Code 1974, § 24-11)

Sec. 1.130.240. Salary.

The ~~director of public safety~~Chief of Police and the Fire Chief shall be paid an annual salary, payable in equal monthly installments, as the city council shall provide in the annual budget of the city.

(Code 1974, § 24-12)

Division III. Collective Bargaining by Law Enforcement Personnel¹⁹

- CODE OF ORDINANCES
Title I - GOVERNMENT
CHAPTER 130. - PUBLIC SAFETY
ARTICLE 2. - DEPARTMENT
Division III. Collective Bargaining by Law Enforcement Personnel

¹⁹Editor's note(s)—Ord. No. 4.333, § 1, adopted Jan. 11, 2016, set out provisions intended for use as Div. III, §§ 1.130.300—1.130.360. For purposes of classification, and at the editor's discretion, these provisions have been included as Div. III, §§ 1.130.241Editor's note(s)—1.130.247.

Sec. 1.130.241. Purpose.

This division is adopted for the purpose of providing a framework within which sworn law enforcement personnel employed by the City of Gladstone can exercise their right under Article 1, Section 29 of the Constitution of the State of Missouri to bargain collectively with the city, through representatives of their own choosing.

(Ord. No. 4.333, § 1(1.130.300), 1-11-2016)

Sec. 1.130.242. Coverage.

- (a) This division shall apply to all sworn, full-time personnel employed in the ~~law enforcement divisions of the department of public safety~~police department.
- (b) It is the city's determination that sworn, non-supervisory employees employed within the police department ~~law enforcement divisions of the department of public safety~~ constitute the most appropriate unit for the purpose of collective bargaining. Any election conducted for the purpose of allowing employees to designate an exclusive bargaining representative, as provided below, shall take place within this unit subject to the following exclusions:
 - (1) To avoid the division of loyalties and conflicts of interest, supervisory personnel shall not be included within the same bargaining unit as employees they supervise. However, the same labor organization may represent both non-supervisory and supervisory employees in separate bargaining units.
 - (2) Command level employees shall not be part of any bargaining unit.
 - (3) Confidential employees shall not be included within the same bargaining unit as non-supervisory employees. For the purposes of this subsection, the departmental administrative assistant shall be considered a confidential employee.
 - (4) Police officers on introductory status are not regular employees and shall not be included within the bargaining unit until they successfully complete their introductory status period.

(Ord. No. 4.333, § 1(1.130.310), 1-11-2016)

Sec. 1.130.243. Designation of exclusive bargaining representative.

- (a) Any labor organization wishing to represent employees employed in the city's ~~law enforcement divisions of the department of public safety~~police department, in either a supervisory or non-supervisory bargaining unit, shall present to the city manager or his/her designee cards containing the signatures of at least 50 percent of the employees in the unit, indicating that they wish to select the labor organization in question as their exclusive bargaining representative for the purpose of collective bargaining.
- (b) Upon receiving such cards, the city manager or his/her designee shall validate the signatures on the cards, and confirm that at least 50 percent of the employees in the bargaining unit have signed cards. If the city manager or his/her designee determines that at least 50 percent of the employees in the unit have signed valid cards, the city manager or his/her designee shall consult with the ~~director of public safety~~Chief of Police and the representative of the labor organization that has presented the cards, and together they shall select a mutually agreeable neutral third party who shall serve as election overseer for the purposes of conducting a secret ballot on a date mutually agreeable to the city, the labor organization, and the election overseer. The election shall be held at City Hall, and shall be set for a date falling no less than four and no more than six weeks after the day upon which the city manager or his/her designee first receives the cards from the labor organization's representative, unless the city manager or his/her designee, the ~~director of public safety~~Chief of Police, and the representative of the labor organization all agree upon some other date.

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(Supp. No. 9)

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- (c) Once an election overseer has been selected, he or she shall issue a notice informing all eligible voters of the date, time, and place of the election. Such notice shall be distributed to all sworn employees and shall be posted within the department.
- (d) From the time the election notice is first posted until the date of the election, all employees of the city shall have the right to freely express their opinions about whether or not the labor organization should be selected as the exclusive bargaining representative of the employees in the bargaining unit. However, no employee of the city and no representative of the labor organization shall attempt to threaten, intimidate, coerce, or otherwise restrain any eligible voter in the free exercise of his or her individual choice to support or oppose the selection of the labor organization in question as the exclusive bargaining representative of the employees in the bargaining unit.
- (e) The election shall be conducted by secret ballot, using such procedures as the election overseer shall determine are appropriate for ensuring the privacy and security of each employee's vote. Once the poll is closed, the election overseer shall oversee the counting of the ballots. One representative of the city and one representative of the labor organization shall have the right to be present during the counting of the ballots. The election overseer may permit additional interested individuals to attend the vote count, at his or her discretion.
- (1) The ballots shall read "Do you wish to select (labor organization) as the exclusive bargaining representative for (description of bargaining unit) employed within the City of Gladstone- ~~Police Department~~Law Enforcement Divisions of the Department of Public Safety?" The ballot will include check boxes for marking "yes" or "no" in response to this question.
- (2) In the event that more than one labor organization seeks to represent employees in the unit, and in the event both labor organizations have obtained signatures from at least 50 percent of the employees in the unit stating that they wish to designate the labor organization as their exclusive bargaining representative, then the ballot shall read "Do you wish to select (labor organization A) (labor organization B), or no labor organization as the exclusive bargaining representative for (description of bargaining unit) employed within the City of Gladstone ~~Law Enforcement Divisions of the Department of Public Safety~~Police Department?" The ballot will then include check boxes for marking "I wish to select (labor organization A) as my exclusive bargaining representative.", "I wish to select (labor organization B) as my exclusive bargaining representative.", and "I do not wish to select any labor organization as my exclusive bargaining representative."
- (3) Any labor organization receiving more than 50 percent of the votes of all eligible voters shall be designated and recognized by the city as the exclusive bargaining representative for all employees in the bargaining unit.
- (f) Employees within the bargaining unit shall have the right to seek to decertify the labor organization as their exclusive bargaining representative at any time. If any employee within the bargaining unit presents to the city manager or his/her designee cards bearing the signatures of at least 30 percent of the employees within the bargaining unit stating that those employees no longer wish to be represented by the labor organization in question, the city manager or his/her designee shall first validate the signatures on the cards.
- (1) If the city manager or his/her designee confirms that at least 30 percent of the employees in the bargaining unit have signed decertification cards, the city manager or his/her designee shall consult with the ~~director of public safety~~Chief of Police and the designated representative of the labor organization to select a mutually acceptable election overseer, who will conduct an election pursuant to the procedures set out above. Such election shall take place at least four weeks after the city manager or his/her designee receives the decertification cards and no later than six weeks after the city manager or his/her designee receives the decertification cards. Notice of such election shall be distributed to all employees within the bargaining unit and posted within the ~~law enforcement divisions of the department of public safety~~police department.

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- (2) If more than 50 percent of the employees in the bargaining unit cast votes to terminate the labor organization's representation of the employees in the bargaining unit, the labor organization shall immediately cease to represent the employees in the bargaining unit.
 - (3) In the event of the decertification of the exclusive bargaining representative of the employees in any bargaining unit within the ~~law enforcement divisions of the department of public safety, police department~~, all terms and conditions of employment existing at the time of decertification shall remain in place until such time as those terms or conditions of employment are altered by the city council.
 - (g) No more than one election shall take place in any bargaining unit within the same 12-month period. Once an election takes place, the city manager or his/her designee shall not accept cards from labor organizations or employees within the bargaining unit seeking another election for one full calendar year after the date of the election.

(Ord. No. 4.333, § 1(1.130.320), 1-11-2016)

Sec. 1.130.244. Collective bargaining process.

- (a) Within four weeks after a labor organization is certified as the exclusive bargaining representative for the employees in a bargaining unit as set out above, representatives of the city, designated by the city manager, and representatives of the labor organization, selected by the labor organization, shall meet and begin bargaining for an agreement covering the wages, benefits, and other terms and conditions of employment for the employees within the bargaining unit.
- (b) Both sides shall bargain in good faith, and make an earnest effort to reach a mutually acceptable agreement, but neither side shall be required to offer any particular concession or withdraw any particular proposal.
- (c) The city shall not pay any union representative for time spent participating in collective bargaining or preparing for collective bargaining, except to the extent the person in question is an employee of the city and elects to use accrued paid time off to cover the time so spent.
- (d) If the parties reach an agreement, management shall present the agreement to the city council for approval or rejection.
- (e) After the first agreement between the city and the labor organization is adopted, bargaining for renewal agreements shall take place annually. Such bargaining must be completed to allow sufficient time for submission and approval of a city budget by the city council. The parties may elect to bargain non-economic terms for longer periods (e.g. three years or five years), but all economic provisions of the agreement shall be adopted on a year-to-year basis only.

(Ord. No. 4.333, § 1(1.130.330), 1-11-2016)

Sec. 1.130.245. Content of labor agreements.

- (a) Labor agreements negotiated between the parties may cover wages, benefits, and all other terms and conditions of employment for employees within the bargaining unit, subject to the following limitations.
 - (1) No labor agreement shall provide any outside person or entity with authority to interpret the labor agreement, resolve grievances, award damages, or otherwise determine personnel matters within the city.
 - (2) No labor agreement shall require any employee of the city, who does not wish to become a member of the labor organization, to pay any dues or fee of any kind to the labor organization in question. It is understood that, in the event an employee elects not to join and pay regular dues to a labor

organization that represents the employee, the labor organization will continue to represent the employee as a member of the bargaining unit, but the employee will not enjoy any of the rights or benefits that arise from membership in the labor organization itself.

- (3) Every labor agreement shall include a provision reserving to management the right to hire, promote, assign, direct, transfer, schedule, discipline, and discharge employees, so long as those rights are not exercised in a way that conflicts with any express provision of the labor agreement. Every labor agreement shall also include a provision reserving to management the right to make, amend, and rescind reasonable work rules and standard operating procedures, so long as such work rules and standard operating procedures do not conflict with any express provision of the labor agreement.
- (4) Every labor agreement shall expressly prohibit all strikes and picketing of any kind. Every labor agreement shall include a provision acknowledging that any employee who engages in any strike or concerted refusal to work, or who pickets over any personnel matter shall be subject to immediate termination of employment.
- (5) Any labor agreement may include a provision stating that city employees who are representatives of a labor organization that has been designated as the exclusive bargaining representative of a unit of employees within the city that includes the employee in question, will be paid for on-duty time spent meeting with management to conduct union business, so long as such meeting does not prevent the employee from performing his or her regular duties. Every labor agreement must provide that, aside from such meetings between union representatives and members of management, city employees who serve as representatives of a labor organization must refrain from conducting the business of the labor organization while they are on duty.

(Ord. No. 4.333, § 1(1.130.340), 1-11-2016)

Sec. 1.130.246. Effect of labor agreement.

- (a) In the event of a budget shortfall, the city council shall have the right to require the modification of the economic terms of any labor agreement.
- (b) Should the city council deem it necessary to modify the economic terms of any labor agreement, it shall so notify the relevant labor organization, and shall provide a period of 30 days during which the city and the labor organization shall bargain in good faith over any necessary adjustments to the economic terms of the agreement.
- (c) If, at the end of the 30-day period, the parties have been unable to agree upon modifications that meet the city council's requirements, the city council shall have the right to make necessary adjustments on its own authority.

(Ord. No. 4.333, § 1(1.130.350), 1-11-2016)

Sec. 1.130.247. Validity and enforcement.

- (a) If the state passes any law governing collective bargaining for law enforcement personnel, then to the extent this division is inconsistent with the Missouri statute, this division shall be superseded in whole or in part by such statute.
- (b) If any court of competent jurisdiction shall declare any provision of this division to be unenforceable under any state or federal statute, regulation, or other authority, that portion shall be stricken from the division, but all other portions of the division shall remain in effect.

(Ord. No. 4.333, § 1(1.130.360), 1-11-2016)

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ARTICLE 3. EMERGENCY SERVICES

Sec. 1.130.250. Emergency medical services—Fees.

- (a) The fee for each emergency medical service performed by the city shall be established from time to time by the city council.
- (b) Fees for services by the city ambulance outside of the city limits shall be collectible as are other debts owed to the city.
- (c) In the event any charge for emergency medical services performed in unincorporated areas of the county remain unpaid for 90 days after the first day of the month following the month in which the service was performed, the accounts receivable therefor shall be assigned to the county and payment thereof shall be requested as provided in the agreement of July 19, 1974.

(Code 1974, § 8-16)

Sec. 1.130.260. Same—Mutual assistance with other services and communities.

- (a) *Calls to authorized ambulances.* The city manager and members of the ~~department of public safety~~~~fire department~~, who may be authorized by the ~~director thereof~~~~Fire Chief~~, are hereby authorized to call any outside ambulance services which are operated by public or private persons other than the city and which are approved by the ~~director~~~~Fire Chief~~, to respond to calls for emergency ambulance services within the city.
- (b) *Calls outside the city.* The city manager ~~and/or his/her designee~~ and the ~~director of the department of public safety~~~~Fire Chief~~ are hereby authorized to allow the city's emergency medical service to respond to calls for ambulance service outside of the city for the purpose of mutual assistance.
- (c) *Payment for outside ambulance services.* The city manager is hereby authorized and directed to pay out of the general fund of the city the customary and reasonable charges made by outside ambulance services which, at the request of the ~~department of public safety~~~~fire department~~, ~~or at the request of MARCER~~, respond to emergency ambulance calls within the city.
- (d) *City's right of recovery.* In the event that payment is made by the city as authorized in this article for outside ambulance services, the city shall have the right of subrogation to the person for whom such services were provided for any claim or cause of action which such person may have to recover the cost of such ambulance services.
- (e) *Calls by city ambulance outside the city.* The city manager and the ~~director of the department of public safety~~~~Chief of Police~~ are hereby authorized to allow the city's ambulance to respond to calls for ambulance service outside of the city limits if requested by MARCER.
- (f) *City ambulance fees.* If the city's ambulance responds to a call outside the city limits and, in fact, transports a person or persons in response to such call, a fee of \$50.00 will be charged to such person or persons for such services. In the event that more than one person is transported in response to a call, the \$50.00 fee shall be charged jointly and severally to such persons.
- (g) *Collection of fees.* Fees for services by the city ambulance outside of the city limits shall be collectible as are other debts owed to the city.

(Code 1974, § 8-17)

CHAPTER 135. EMERGENCY OPERATIONS²⁰

²⁰State law reference(s)—Civil defense, RSMo 44.010 et seq.

ARTICLE 1. IN GENERAL

Sec. 1.135.010. Local organization—Created; purpose; composition.

- (a) There is hereby created the local organization for the preparation and the carrying out of all the emergency functions other than functions for which the military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters caused by terrorism, fire, wind, flood, earthquake, or other material or manmade causes, in accordance with RSMo ch. 44.
- (b) The local organization for the preparation and the carrying out of all the emergency functions shall consist of a director and other additional members to be selected by the director in order to conform to the state organization and procedures for the conduct of emergency operations as outlined in the state survival plan.

(Code 1974, § 8-1)

State law reference(s)—Establishment of local organizations required by all political subdivisions, RSMo 44.080.

Sec. 1.135.020. Same—Director; "chief executive officer" defined.

- (a) A director of the local organization for the conduct of emergency operations shall be appointed by the city manager and shall serve until removed by the city manager.
- (b) The director shall have such responsibilities for the organization, administration, and operation of this organization as is delegated by the chief executive officer.
- (c) The term "chief executive officer" shall be defined for the purposes of this chapter to mean the city manager.

(Code 1974, § 8-2)

State law reference(s)—Definition of "executive officer," RSMo 44.010(9); authority of executive officer to appoint director, RSMo 44.080.

Sec. 1.135.030. Same—Functions.

The local organization shall perform such emergency management functions within the city as shall be prescribed in and by the state emergency management plan and program prepared by the governor, and such orders, rules and regulations as may be promulgated by the governor, and in addition shall perform such duties outside the city as may be required pursuant to any mutual aid agreement with any other political subdivision, municipality, or quasimunicipality entered into as provided by RSMo ch. 44 or the state survival plan.

(Code 1974, § 8-3)

Sec. 1.135.040. Same—Duties of director generally.

The director of the local organization for the conduct of emergency operations shall appoint or provide, without compensation, or remove any personnel needed by the organization for the proper function of its duties.

(Code 1974, § 8-4)

Sec. 1.135.050. Same—Oath required of all personnel.

Every person appointed to serve in any capacity in the city emergency management organization shall, before entering upon such duties, subscribe to the following oath, which shall be filed with the director:

I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Missouri, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same, that I take this obligation freely, without any mental reservations or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the government of the United States, or this state, by force or violence; and that during such time as I am a member of the municipal civil defense organization, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence."

(Code 1974, § 8-5)

State law reference(s)—Similar provisions, RSMo 44.115.

Sec. 1.135.060. Same—Office space.

The city manager is authorized to designate space in any municipally owned or leased building for the city emergency management organization as its office.

(Code 1974, § 8-6)

Sec. 1.135.070. Mutual aid agreements; powers and duties of city manager and director of local organization.

- (a) The city manager, with the approval of the governor, may enter into mutual aid arrangements or agreements with public and private agencies within and without the state for reciprocal emergency aid. Such arrangements or agreements shall be consistent with the state disaster plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements or agreements.
- (b) The director of the local organization for emergency management may assist in negotiation of reciprocal mutual aid agreements between the local organization and other public and private agencies and between the governor and the adjoining states or political subdivisions thereof, and shall carry out arrangements or agreements relating to the local unit.

(Code 1974, § 8-7)

State law reference(s)—Similar provisions, RSMo 44.090.

Sec. 1.135.080. Procedure for receiving services, supplies, etc.

Whenever the federal government or state government, or officer or agency thereof shall offer to the city, or through the state to the city, services, equipment, supplies, material or funds by way of gift, grant or loan, for the purpose of emergency management, the city acting with the consent of the governor and through the city manager may accept such offer and upon acceptance the city manager may authorize any officer of the city to

receive such services, equipment, supplies, materials or funds on behalf of the city subject to the terms of the offer.

(Code 1974, § 8-8)

Sec. 1.135.090. Procurement of services, supplies, etc.

In the event of an emergency as defined by RSMo 44.010, the director of civil defense is authorized on behalf of the city to procure such services, supplies, equipment, without regard to the statutory procedures or formalities normally prescribed by law pertaining to municipal contracts or obligations, as authorized by RSMo ch. 44; provided that if the city council meets at such time, the director shall act subject to the directions and restrictions imposed by the city council.

(Code 1974, § 8-9)

Sec. 1.135.100. Waiver of rules during enemy attack.

In the event of enemy attack, the city manager may waive any time-consuming procedures and formalities otherwise required by statute pertaining to the advertising for bids for the performance of public work, or entering into contracts.

(Code 1974, § 8-10)

ARTICLE 2. CIVIL EMERGENCY²¹

²¹State law reference(s)—Definition of "emergency," RSMo 44.010(5); emergency powers of governor with regard to civil defense, RSMo 44.100; cooperation of state agencies and cities during civil emergencies, RSMo 44.110.

Sec. 1.135.110. Issuance of proclamation of state of civil emergency.

Whenever, in the judgment of the mayor, with the advice of the ~~director of public safety~~city manager, a state of civil emergency exists as a result of mob action, riots, general civil disobedience or disorder, or the threat of any of such conditions shall exist, the mayor shall, in addition to all other powers granted the mayor by the laws of this state and this Code or other ordinances of this city, be empowered in order to suppress such actions and preserve the peace and order of the city and to protect its citizens and their property to issue a proclamation declaring a state of civil emergency to exist.

(Code 1974, § 8-11)

Sec. 1.135.120. Powers of mayor generally.

The mayor may by proclamation exercise any or all of the powers granted in the following subsections:

- (1) To impose a curfew upon all or any portion of the city as designated therein as the mayor may deem advisable during such hours of the day or night as the mayor determines necessary in the interest of the public safety and welfare, and during which all persons shall remove themselves to their places of residence and remain off and away from the public streets, sidewalks, parkways, parks and all other public or open places, and no persons shall assemble, gather, loiter or otherwise congregate in any manner in groups, assemblies or meetings in any place for any purpose whatsoever; provided that persons performing medical services, essential public utility services, public officials, police officer, firefighter and all other persons explicitly enumerated in such proclamation may be exempted from curfew.
- (2) To order the closing of any and all business establishments throughout the city or any portion thereof during the period for which the state of emergency exists or during the curfew hours.
- (3) To order discontinuance of selling, distributing, dispensing or giving away of any firearms or other weapons of any character whatsoever.
- (4) To order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms or ammunition or other weapons of any character whatsoever.
- (5) To order the closing of all retail and wholesale liquor stores, taverns and other places dispensing, serving or permitting the consumption of intoxicating liquor or nonintoxicating beer.
- (6) To order the discontinuance of the sale, distribution or giving away of intoxicating or nonintoxicating liquors.
- (7) To order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor or nonintoxicating beer is permitted.
- (8) To order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
- (9) To order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of gasoline or other liquid flammable or combustible products.
- (10) To designate any public place, public street, thoroughfare, boulevard, parking area and any other place closed to motor vehicles, persons and pedestrian traffic.

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- (11) To order all regular, special and auxiliary ~~public safety~~ police officers and other conservators of the peace to report for duty assignment, such reporting to be in accordance with prearranged plans or under the direction of lawful authority.

(Code 1974, § 8-12)

Sec. 1.135.130. Time of effect and filing of proclamation.

Any proclamation of a state of emergency shall become immediately effective upon its execution and issuance by the mayor, and the original thereof shall be filed and remain in the office of the city clerk.

(Code 1974, § 8-13)

Sec. 1.135.140. Duration of proclamation.

The proclamation issued in accordance with the provisions of this article shall remain in effect continuously from the date and time of the issuance thereof for such period of time as specifically prescribed therein or upon the issuance of a proclamation determining a civil emergency no longer exists, whichever occurs first.

(Code 1974, § 8-14)

Sec. 1.135.150. Violations; certified copy of proclamation to constitute prima facie evidence.

It shall be unlawful for any person to fail, neglect or refuse to comply with the orders made or prohibitions instituted by a proclamation issued under the provisions of this article, or for any person to otherwise violate or in any manner aid, assist, encourage or countenance the commission or perpetration of a violation of such proclamation. For the purpose of the prosecution of any person for the violation of this article, a copy of the proclamation of the mayor certified by the city clerk to be a true and correct copy thereof shall be deemed to constitute prima facie evidence that such proclamation was duly issued by the mayor on the date and at the time set forth therein pursuant to the authority contained in this article.

(Code 1974, § 8-15)

Title II PUBLIC HEALTH, SAFETY AND WELFARE²²

²²Cross reference(s)—Utilities, title VI; building and construction, title IX; public and semipublic swimming pools, spas, hot tubs and whirlpool baths, § 9.2000.010 et seq.

CHAPTER 100. HEALTH OFFICER²³

²³Cross reference(s)—Health officer, § 1.105.540Cross reference(s)—.

- CODE OF ORDINANCES
Title II - PUBLIC HEALTH, SAFETY AND WELFARE
CHAPTER 100. - HEALTH OFFICER
ARTICLE 1. IN GENERAL

ARTICLE 1. IN GENERAL

Secs. 2.100.010—2.100.100. Reserved.

ARTICLE 2. FOOD AND FOOD SERVICE ESTABLISHMENTS²⁴

²⁴Cross reference(s)—Business and occupations, title V.

State law reference(s)—Food and drugs, RSMo 196.010 et seq.

- CODE OF ORDINANCES
Title II - PUBLIC HEALTH, SAFETY AND WELFARE
CHAPTER 100. - HEALTH OFFICER
ARTICLE 2. - FOOD AND FOOD SERVICE ESTABLISHMENTS
Division I. Generally

Division I. Generally

Secs. 2.100.110—2.100.200. Reserved.

Division II. Food Service Sanitation Ordinance

Sec. 2.100.210. Accord with federal food service sanitation ordinance.

The definitions; the inspection of food service establishments; the issuance, suspension and revocation of permits to operate food service establishments; the prohibiting of the sale of unsound or mislabeled food or drink; and the enforcement of this division shall be regulated in accordance with the 1976 edition of the Food and Drug Administration "Food Service Sanitation Ordinance," three certified copies of which shall be on file in the office of the city clerk; provided that the words "municipality of Gladstone" in such ordinance shall be understood to refer to the City of Gladstone, Missouri.

(Code 1974, § 14-1)

Sec. 2.100.220. Violations; penalties.

Any person who violates any of the provisions of this division shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00. In addition thereto, such persons may be enjoined from continuing such violations. Each day upon which such violation occurs constitutes a separate violation.

(Code 1974, § 14-2)

Sec. 2.100.230. Application of terms.

- (a) The words "regulatory authority" in the food service sanitation ordinance shall be understood to refer to the city or its designated representative.
- (b) The words "health authority" in the food service sanitation ordinance shall be understood to refer to the city manager or the city manager's designated representative.

(Code 1974, § 14-3)

Division III. Outdoor Display, Sale and Storage of Food

Sec. 2.100.240. 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:

Food means any item sold for human or animal consumption.

(Code 1974, § 14-37)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 2.100.250. Outdoor display, sale and storage of food regulated.

In C-1, local business districts, C-2, general business districts, and C-3, commercial districts, the outdoor display, sale and storage of food is authorized only under the following conditions:

- (1) *Outdoor display, sale and storage.* Food sold, displayed or stored outdoors, and any temporary improvements to protect such food from weather conditions, must be located immediately adjacent to an existing permanent structure.
- (2) *License for display and sales.* Outdoor display and sale of food may occur only between the hours of 6:00 a.m. to 11:00 p.m. Display and sales of food must be authorized by an occupational license issued to the existing occupant of that structure. The occupant shall be responsible for compliance with all city ordinances and the collection of appropriate sales taxes.
- (3) *Sales transactions.* All sales transactions shall occur inside the existing, adjacent structure.
- (4) *Outdoor displays and storage.* All outdoor display and storage activities shall comply with all minimum setback requirements of the applicable zoning regulations.
- (5) *Duration for sale, display and storage.* The duration of the activities of the outdoor sale, display and storage of food shall be limited to the months of April through October in each calendar year.

(Code 1974, § 14-38)

Sec. 2.100.260. Penalties for violation.

Every person convicted of violating this division shall be punished by imprisonment for not more than 90 days or by a fine of not more than \$500.00 or by both such fine and imprisonment.

(Code 1974, § 14-39)

CHAPTER 105. ANIMAL REGULATIONS²⁵

²⁵Editor's note(s)—Ord. No. 4.022, §§ 1 and 2, adopted Feb. 26, 2007, repealed ch. 105 and enacted a new chapter as set out herein. The former ch. 105, §§ 2.105.010Editor's note(s)—2.105.190, pertained to similar subject matter and derived from §§ 5-1—5-4, 5-4.1, 5-5—5-17, and 5-19 of the 1974 Code; Ord. No. 2.972, § 1, adopted Jan. 28, 1991; and Ord. No. 3.131, § 1, adopted Oct. 12, 1992.

Sec. 2.105.010. Definitions.

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

Animal means any live, vertebrate creature, domestic or wild, other than human.

Cat means all domesticated animals of the feline species, both male and female, unless otherwise specified.

Dangerous animals.

(1) The term "dangerous animal" means:

- a. Any animal, except one assisting a peace officer in law enforcement duties, which when unprovoked, in a threatening or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or other public grounds or places, or upon any private property not owned by the owner of such dog;
- b. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
- c. Any animal which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property;
- d. Any animal owned or harbored primarily or in part for the purpose of fighting or any animal bred or trained for fighting; or
- e. Any dog of the pit bull breed or mix or combination of breeds commonly known as pit bull, and prominently displaying the characteristics and behavior of a pit bull.

(2) Notwithstanding the definition of a dangerous animal in subsection (1)a.—d. of this definition, no animal may be declared dangerous if:

- a. An injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.
- b. An injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was teasing, tormenting, abusing or assaulting the animal.
- c. The animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

Dog means all domesticated animals of the canine species, both male and female, unless otherwise specified.

Exposed to rabies means when bitten by, or fought with, or has come in close contact with a dog or other animal showing symptoms of rabies.

State law reference(s)—Similar provisions, RSMo 322.010(3).

Ferret means any member of the Mustela family, male or female, commonly kept as a pet.

Animal control officer means an agent designated by the city manager to work under the supervision of the ~~director of public safety~~ Chief of Police.

Owner means any person, group of persons or corporations owning, keeping or harboring a dog, or any other animal or fowl, domestic or wild.

Pit bull means: (1) the bull terrier breed of dog; (2) the Staffordshire bull terrier breed of dog; (3) the American pit bull terrier breed of dog; (4) the American Staffordshire terrier breed of dog; (5) dogs of mixed breed or other breeds than the foregoing which breed or mixed breed is commonly known as pit bull, pit bull dog, or pit bull terrier; and (6) any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier; or any other breed commonly known as pit bulls, pit bull dogs, or pit bull terriers, or a mix or combination of any of these breeds.

Restraint. A dog is under restraint if it is:

- (1) Within a fully enclosed or fenced area including an electronic fence or electric collar that controls the movement of a dog by emitting an electrical shock when the animal wearing the collar nears the boundary of the owner's, keeper's, harbored's or maintainer's property. The collar may be controlled manually by a person or automatically in a predetermined manner;
- (2) On a handheld leash by a responsible person physically capable of controlling such dog; and
- (3) On a leash or chain confining such dog to the yard of its owner or keeper.

Wild animals and fowl means any animal or fowl not normally considered to be domestic.

(Ord. No. 4.022, § 2, 2-26-2007; Ord. No. 4.213, 6-25-2012)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 2.105.020. Enforcement of chapter; powers of ~~public safety~~police officers and animal control officers.

- (a) The provisions of this chapter shall be enforced by the ~~department of public safety~~Police Department through its ~~public safety~~police officers and the animal control officers designated by the city manager.
- (b) For the purpose of discharging the duties imposed by this chapter and enforcing its provisions, any ~~police~~public safety officer or animal control officer is empowered to enter upon any premises upon which a dog is kept or harbored and to demand exhibition of the license for such dog by the owner or keeper of the dog. Any ~~police~~public safety officer or animal control officer may enter the premises where any animal or fowl is reportedly kept in an unlawful, cruel or inhumane manner and demand to examine such animal or fowl and to take possession and impound such animal or fowl, when, in such officer's opinion, it is being kept in an unlawful, cruel or inhumane manner. Any ~~police~~public safety officer or animal control officer may impound any animal or fowl found upon the city streets or property or upon the property of any person, in contravention of the provisions of this chapter, and if the officer determines the animal or fowl to be an immediate threat to such officer's or some other person's safety, the officer may destroy such animal at the time and place the officer makes this determination.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.030. Licensing generally; transfer of ownership; collar and tag requirements.

- (a) No person shall own, keep or harbor any dog, over the age of six months, within the city unless such dog is licensed and properly immunized against rabies as provided in this chapter.
 - (1) Written application for a license shall be made to the city collector, shall state the owner's name, address, telephone number (if any), and length of time residing in the city and shall also state the dog's name, breed, color, sex, age, weight and any distinguishing marks. A license fee as provided in this chapter shall be paid to the city collector at the time of making the application. The city collector shall issue a receipt and a numbered metallic or plastic tag for each dog licensed, and shall maintain, for

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three years, two records of such receipts and tags, one alphabetically by name of the owner of the dog and the other arranged numerically by tag number. Such records shall be open to public inspection during the normal business hours of the collector's office.

- (2) No licenses shall be issued unless the owner submits a licensed veterinarian's certification that such dog has been immunized against rabies within the past 360 days, if the immunization is of a one-year duration; or three years if the immunization certificate states that the immunization was of a three-year duration. The owner shall have such dog immunized at least every 365 days, or three years if a three-year immunization is administered, and shall submit certification thereof to the city collector was administered within 60 days of the license application, or 60 days of the commencement of the three-year immunization period for three-year vaccinations. Failure to comply with this subsection shall be cause for automatic revocation of the city license.
- (b) In the event a dog required to be licensed pursuant to this chapter is being treated by a licensed veterinarian and cannot be immunized against rabies, the owner of such animal may present a statement from such licensed veterinarian that the animal is then under treatment and cannot be immunized without jeopardizing such animal's health and that such animal will be immunized by such veterinarian prior to being released from such treatment. On timely presentation of such statement to the city collector, the time for application for a license shall be deferred until such animal has been immunized and the penalty set forth in subsection (d) of this section shall not apply.
- (c) The yearly license fee per dog shall be as set forth in the city's schedule of fees and charges. No fee shall be required for a dog (but not more than one) owned by a blind person or a person 65 years of age or older. Proof of blindness or age may be made in the form of an affidavit to be signed by the person applying for a license. Such affidavit, if based on blindness, shall recite that the application does not at the time application is made have vision greater than what is commonly known as "light perception." The term "light perception," as used in this section, means vision sufficient only to distinguish light from darkness and recognize the motion, not the form, of the hand of the examiner at a distance not greater than one foot from the eye. All other provisions of this chapter shall remain in full force and effect for such blind or elderly persons. In the event of transfer of ownership to a person who is not blind or 65 years of age or older by a person who has for the current year filed an affidavits provided in this chapter, application for a new license must be made by the new owner within 30 days after the date ownership is transferred.
- (d) All dog licenses, except for dangerous dog licenses under subsection (j) of this section, shall be issued for one year beginning with January 1 and expiring on December 31 of each year. Application for a license may be made during the month of January without penalty, but when the application is made subsequent to January 31; a penalty of \$1.00 shall be applied per dog; provided that if the applicant became the owner of the dog or has moved into the city after July 1, the license fee may be prorated to one-half of the required license and \$1.00 penalty for delinquency shall be added 30 days after the date when the applicant became the owner or moved into the city.
- (e) If ownership of a dog licensed by the city is transferred, except as provided by subsection (c) of this section, the new owner shall have the current license transferred to the owner's name within 30 days after transfer of ownership upon payment of a fee of \$1.00.
- (f) The owner shall keep affixed to his/her dog at all times when the dog is not inside a private building a collar or harness with the tag issued by the city collector and the rabies immunization tag attached thereto in such a manner as to be easily seen.
- (g) No person shall use for any dog a license or certificate of immunization or certificate of exception from immunization not issued for that dog.
- (h) If a license tag is destroyed or lost, a duplicate or replacement tag shall be obtained from the city collector, for the fee as set forth in the city's schedule of fees and charges, within 30 days after such destruction or loss is first discovered by the keeper or owner.

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(i) Reserved.

(j) Owners of dogs classified as "dangerous" by the animal control officer, shall obtain a dangerous dog license each year. Such license shall be issued only upon proof of compliance with all of the provisions of this chapter, including proof of liability insurance; the inspection of the premises and facilities where the dog will be kept; and the payment of the standard city dog license fee. Such licenses must be renewed annually and compliance with this paragraph shall be a prerequisite to the renewal of any such license. Failure to renew a dangerous dog license shall result in a fine of \$300.00.

(Ord. No. 4.022, § 2, 2-26-2007)

State law reference(s)—Authority of city to regulate, license and impound dogs, RSMo 77.510; dog regulations generally, RSMo 273.010 et seq.

Sec. 2.105.035. Limitation on number of uncaged pet animals.

Except for short-term breeding purposes, no owner or family, as "family" is defined in title IX of this Code, shall own, keep, or harbor more than four uncaged animals over the age of four months. For the purpose of this chapter, the term "uncaged animals" shall mean dogs, cats or any other animals normally considered pets, which are not customarily kept within a cage or pen.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.040. Non-immunized dogs, cats, and ferrets prohibited.

It shall be unlawful for the owner or person keeping any dog, cat, or ferret within the City, to keep, maintain, allow, harbor, or permit such dog, cat, or ferret unless it shall have been immunized against rabies by a licensed veterinarian with a current rabies vaccine, administered within the previous 365 days, or in the case of a three-year vaccine, within the prior three years. This section shall not apply to dogs, cats, or ferrets that have not attained the age of six months. All licensed dogs, when not inside a private building, shall wear a collar or harness with a current rabies immunization tag attached in such a manner as to be easily seen.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.045. Care of dogs and other animals; barking, howling, etc., prohibited.

The owner of an animal shall provide it with humane shelter from weather elements and shall give it adequate food and water to keep the animal in good health and comfort. Shelter shall be soundly constructed, dry and provided with bedding as necessary. All dogs must be given opportunity for vigorous daily exercise and all animals must be provided by their owners with veterinary care when needed to prevent suffering. No owner shall permit a dog to habitually bark, howl or in other ways be a public nuisance. No owner shall permit its animal to deposit feces on public property or the private property of another without immediate removal of such feces from such property.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.050. Restraint.

A dog owner or keeper shall keep such owner's or keeper's dog under restraint at all times.

(Ord. No. 4.022, § 2, 2-26-2007)

State law reference(s)—Authority of city to restrain dogs and other animals, RSMo 77.510.

Sec. 2.105.060. Dangerous dogs.

- (a) It shall be unlawful for any person to own, keep, maintain, allow, harbor, or permit more than one dangerous dog upon any one residential lot or within any home upon such lot.
- (b) Dogs that meet the definition of "pit bull breed" set forth in section 2.105.010 of this chapter shall be presumed to be "dangerous dogs" and the owners of such dogs shall be required to comply with the requirements of this section.
 - (1) Owners of licensed dogs defined as "pit bull breed" under this chapter shall be provided with written notice by the animal control unit that such owners must comply with the dangerous dog provisions of this section, unless such owners meet the provisions of subsection (2) below;
 - (2) Owners of pit bull breed dogs that are currently licensed as of the effective date of Ordinance 4.022 (February 26, 2007) are exempt from the requirements of this chapter relating to dangerous dogs, for the lifetime of each dog so licensed.

Owners of pit bull breed dogs that have not been previously licensed shall be allowed a grace period of 90 days from the effective date of this chapter to properly identify and license their dogs as pit bull breeds. Owners that comply within this grace period shall be exempt from the provisions of this section relating to dangerous dogs, including the enhanced restraint and insurance requirements, for the lifetime of each dog so licensed, unless such dog is in the future determined to meet the conditions of this section to be designated as a "dangerous dog."

(c) It shall be unlawful for any person to own, keep, maintain, allow, harbor, or permit any dangerous dog within the city, unless such dog is kept subject to the following mandatory requirements:

- (1) Owners of dangerous dogs within the corporate limits of the city shall be required to register their dogs with the animal control officer within 30 days of the effective date of the ordinance from which this section is derived, or upon the determination that the animal is a dangerous animal by the animal control officer, or a court of competent jurisdiction.
- (2) No person shall permit a dangerous dog to go outside its enclosure or pen unless such animal is secured with a leash no longer than four feet in length. No person shall permit a dangerous dog to be kept on a chain, rope or other type of leash outside its enclosure or pen unless an adult who is physically capable of restraining such dog is in physical control of the leash and dog. It is prohibited for dangerous dogs to be leashed to inanimate objects such as, but not limited to trees, posts, and buildings. In addition, all dangerous dogs on a leash outside the animal's enclosure or pen must be muzzled by a device sufficient to prevent such dog from biting persons or other animals or fowl. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration.
- (3) All dangerous dogs shall be securely confined indoors or in a securely enclosed and locked pen, structure or enclosure, except when leashed and muzzled as provided above. Such pen, structure, or enclosure must have secure sides and a secure top attached to the sides. All pens, structures, or enclosures used to confine dangerous dogs must be locked with a key or combination lock, when such dogs are within such pen, structure or enclosure. Such pen, structure, or enclosure must have a secure bottom or floor attached to the sides of the pen, structure or enclosure or the sides of the pen, structure or enclosure must be embedded no less than two feet in the ground. Structures erected to house dangerous animals must comply with all city zoning and building regulations. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. The location and other structural features of such a pen shall also comply with the requirements of the city's outbuilding ordinance.

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- (4) No dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such structure on its own volition. In addition, no such dog shall be kept in a house or structure when the windows are open or when screen windows or screen doors are the only barrier preventing the animal from exiting the structure.
- (5) All owners of dangerous dogs within the corporate limits of the city shall display in a prominent place on their premises a warning sign easily readable by the public using the words "Beware of Dangerous Dog," and the international symbol for danger. In addition, a similar sign is required to be posted on the pen, structure or enclosure containing such animal.
- (6) All owners of dangerous dogs registered with the animal control officer must provide with the annual registration to the city animal control officer a veterinarian's certification that the dog has been spayed or neutered, and two color photographs (two different poses) of the dog clearly showing the color and approximate size of the animal.
- (7) All owners of dogs involved in an incident as described in section 2.105.010 (1) a. and c., must, within ten calendar days after such incident, report in writing the following information to the animal control officer:
- The removal from the city or death of the dangerous dog and the address of the location to which such dog was moved, which information shall be reported by the animal control officer to the jurisdiction where the dog has been relocated;
 - The birth of offspring of a dangerous dog;
 - The new address of a dangerous dog owner should the owner move from one address within the corporate city limits to another address within the corporate city limits.
 - Any deletion, expiration or change in liability insurance policies maintained as required in this chapter.
- (8) No person shall sell, barter or in any other way dispose of a dangerous dog registered with the animal control officer to any person within the city unless the recipient resides permanently in the same household and on the same premises as the registered owner of such animal; provided, however, that the owner of a dangerous dog registered with the animal control officer may sell or otherwise dispose of the dangerous dog or the offspring of such dog to persons who do not reside within the corporate city limits.
- (9) All owners of dangerous dogs within the corporate limits of the city shall provide proof to the animal control officer of public liability insurance in a single incident in the amount of \$300,000.00 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership of such dog. Insurance companies issuing such policies shall notify the city upon the cancellation or non-renewal of any such policy.
- (10) Upon initial registration and/or subsequent yearly registration of such animal the owner shall provide proof of such insurance for the present registration period and proof that such insurance was maintained throughout the period of the prior registration period. In the event such required insurance is cancelled, expired, or for any other reason becomes non-enforceable, the owner of the dangerous animal shall be in violation of the provisions of this chapter and subject to the penalties provided in this chapter.
- (d) If the animal control officer or ~~police~~~~public safety~~ officer shall be notified of a dangerous animal and upon investigation shall find such animal not kept as required by subsection (b) of this section, the animal shall be captured and impounded by the animal control officer or ~~police~~~~public safety~~ officer, or killed by a ~~police~~~~public safety~~ officer. Identification of the animal as the subject of the notification shall be made as is practical under the circumstances. Before killing such animal, the ~~police~~~~public safety~~ officer shall first

determine, with advice from the animal control officer as is practical under the circumstances, if capture and impoundment of the animal is reasonable. If capture and impoundment of the animal is reasonable, the animal shall be captured and impounded pending resolution of the matter in municipal court. If capture of the animal is determined to be unreasonable, a ~~police~~~~public safety~~ officer shall have full authority to kill the animal. However, the animal control officer or ~~police~~~~public safety~~ officer shall not put himself/herself in any position of danger of being attacked. If the animal control officer or ~~police~~~~public safety~~ officer shall determine the animal to be a dangerous animal and shall find such animal to be fastened to a leash or tether in a manner in violation of the requirements of subsection a. of this section, the animal shall be captured and impounded pending resolution of the matter in municipal court but the animal shall not be killed. Identification of the animal as a dangerous animal shall include an independent appraisal of the disposition of the animal by the animal control officer or ~~police~~~~public safety~~ officer as is practical under the circumstances.

- (e) *Dangerous animal hearing.* Persons aggrieved or threatened by a dangerous animal may file a formal, written complaint, on a form provided upon request by the city, with the animal control officer requesting an order declaring the animal to be a dangerous animal. Upon receipt of the formal, written complaint the animal control officer shall investigate the allegations contained in the complaint. After completing the investigation, the animal control officer shall send their findings to the appropriate division commander of Gladstone ~~Public Safety~~~~Police Department~~. The appropriate division commander of Gladstone ~~Public Safety~~~~Police Department~~ shall, based on the written complaint and the investigation completed by the animal control officer determine if a hearing is necessary to determine if the animal is a dangerous animal under the provisions of this chapter. If the appropriate division commander determines that a hearing is necessary, the animal control officer shall provide ten-day advanced written notice via first class mail (postage prepaid) and certified mail (postage prepaid) return receipt requested, of the hearing to the owner of the allegedly dangerous animal and the aggrieved person who filed the written complaint. If an owner or aggrieved person cannot be reasonably located, notice of the complaint and the date of the hearing shall be given by publication once a week for one week in a newspaper of general circulation within the city. The division commander or their designee shall hold a hearing and shall hear evidence relevant to the determination of whether the subject animal is a dangerous animal under this chapter. At the hearing, the owner of the allegedly dangerous animal and the aggrieved person may be represented by legal counsel. After the hearing the division commander or their designee shall issue findings of fact and conclusions of law and an appropriate order, based upon competent and substantial evidence. If the division commander or their designee issues an order declaring the animal to be dangerous the order shall also:
- (1) Require the owner of the dangerous animal to keep the animal as required by subsection (c) of this section; or
 - (2) Require that the owner permanently remove the animal from the corporate limits of the City of Gladstone, Missouri; or
 - (3) Require the animal be immediately destroyed, in which case the order shall direct the appropriate city personnel to capture and impound the animal pending any appeal of the order; and
 - (4) Any animal declared dangerous shall be prevented from reproducing by spaying or neutering of the animal. The owner of such animal shall provide proof of such sterilization of the animal to the animal control officer within 30 days of the notification date of the need for this sterilization.
- (f) *Appeals from dangerous animal process.* Any person aggrieved by any order or determination made under subsection (e) of this section may request a conference with the director of ~~Gladstone Public Safety~~~~Chief of Police~~ to discuss the appropriateness of the order or determination. This official shall have the authority, through the exercise of his or her reasonable discretion, to withdraw the order or to modify its terms and conditions, based on the competent and substantial evidence presented during the conference.

(g) Upon conviction in municipal court for a violation of this section, the court shall fine the owner of the dangerous animal the following:

- (1) Three hundred dollars for the first offense.
- (2) Five hundred dollars for the second offense.

All such fines shall be a minimum fine. In addition to the fines referenced above, the municipal judge may sentence the owner to jail for a term not to exceed 90 days.

(Ord. No. 4.022, § 2, 2-26-2007; Ord. No. 4.445 , § 1, 2, 9-10-2018)

Sec. 2.105.065. Dangerous and exotic animals prohibited.

The keeping or harboring of any dangerous animal, other than dangerous dogs as regulated under section 2.105.050 of this chapter, is hereby prohibited. The supervisor of the animal control unit shall have the authority to declare an animal dangerous if such animal demonstrates dangerous behavior or has demonstrated prior dangerous behavior; is deemed inherently dangerous due to the nature of the animal; is a poisonous animal or a warm-blooded carnivorous or omnivorous animal (including, but not limited to, nonhuman primates, raccoons, skunks, panthers, bobcats, lions, tigers, bears, wolves, coyotes, foxes, leopards, alligators, crocodiles, or poisonous snakes); or presents a violation of any of the provisions of this chapter.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.075. Impoundment and disposal.

- (a) Any animal or fowl maintained or kept in violation of this chapter, including, but not limited to, dogs not licensed pursuant to this chapter or found not under restraint or abandoned, may be seized and impounded by any ~~public safety~~police officer or animal control officer. Upon receipt of a signed complaint by any persons that a dog, cat or any other animal is running at large and causing damage to persons or property or constitutes a public nuisance, any ~~public safety~~police officer or animal control officer may take possession of and impound such animal. Impoundment shall be in any animal shelter designated by the city manager.
- (b) If an impounded animal or fowl wears a license tag or if the owner can be identified and located by reasonable means, the owner shall, within 48 hours of impoundment, be notified that the owner's animal or fowl has been impounded.
- (c) If the owner of an impounded animal or fowl is notified that such animal or fowl has been impounded, the owner shall redeem it after paying all expenses incurred by the city as a result of the impoundment, including any medical treatment rendered to the animal or fowl. If the owner does not redeem the animal or fowl within four days after receiving notice of impoundment or if the owner cannot be identified within four days after impoundment, the animal or fowl may be disposed of by using an approved, humane method; provided, however, that the animal or fowl may be disposed of immediately, if, in the opinion of the human officer, it is suffering beyond recovery or in any way endangers the health of other impounded animals or fowl.
- (d) An owner redeeming an animal or fowl from impoundment shall pay, before release, an impoundment fee plus a daily boarding charge as specified in the adopted schedule of fees and charges, for each 24 hours or fraction thereof that the animal or fowl has been impounded. Such fees shall be delivered, by the animal control officer to the city collector by the last working day of each month.

(Ord. No. 4.022, § 2, 2-26-2007)

State law reference(s)—Impounding dogs, RSMo 273.100.

Sec. 2.105.070. Animals exposed to rabies to be confined, destroyed, etc.

- (a) Every animal exposed to rabies shall be immediately confined by the owners, who shall immediately notify a ~~police~~public safety officer or animal control officer of the animal's exposure. The owner shall immediately upon request surrender such animal to any ~~police~~public safety officer or animal control officer for confinement in a licensed veterinary hospital of the owner's choice, in the local vicinity of the city or surrender such animal for confinement in the city animal shelter. The animal shall be confined for a minimum period of ten days. All costs of confinement shall be assessed against and paid by the owner.
- (b) No person shall kill a known or suspected rabid animal or an animal exposed to rabies, nor remove such an animal from the city limits without permission of the ~~public safety~~police department, except when it is necessary to kill such animal to prevent its escape or attack of any person or animal.
- (c) The location of the remains of any dead animal known or suspected to have been exposed to rabies prior to death shall be reported to the ~~public safety~~police department and the remains shall be surrendered to the ~~public safety~~police department for laboratory examination.
- (d) Any animal that has been bitten or scratched by another animal that is known to be or suspected of being rabid shall be immediately confined in such place as may be ~~directed by the director of public safety~~Chief of Police, who shall have authority to promulgate rules and regulations concerning the confinement of such animals. If the animal that made the bite or scratch is determined to be rabid or evidences positive signs of rabies, such animal that was bitten or scratched will be kept in confinement for a period of six months or destroyed and its body surrendered to the ~~public safety~~police department or otherwise confined or disposed of as may be directed by the ~~director of public safety~~Chief of Police.
- (e) The ~~director of public safety~~Chief of Police shall have the authority to immediately destroy any animal which is determined to have bitten or scratched a human if the director determines that destruction of such animal is necessary to determine whether such animal is rabid, and the ~~director of public safety~~Chief of Police shall have the authority to promulgate rules and regulations concerning the handling and disposition of such animals.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.080. Confinement of female dogs in heat.

The owner of any female dog in heat shall confine such dog within a building in such manner that the dog will not be accessible to or attract other dogs, except for planned breeding.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.090. Maintenance of pens, runs, cages, structures, or other enclosures for animals; control of odor.

Every pen, run, cage or other yard enclosure in which an animal is kept, and any house, building, or other structure inside which an animal is kept, shall be maintained in a clean and sanitary condition that is not detrimental to the health or safety of any person, and so that no noxious smell or odor shall emanate therefrom to the annoyance, injury, or inconvenience of any person.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.100. Fencing.

- (a) All fences constructed for the purpose of containing animals or fowl as provided in this chapter shall be composed of either posts and rails, posts and palings, posts and wire, or posts and boards and shall be at least 4½ feet in height, or higher if necessary to prevent the escape of the animal. All posts shall be set firmly into the ground, not more than eight feet apart, with rails, palings, wire or boards securely fastened thereto and placed a proper distance apart so as to resist the animals or fowl the fence is meant to contain. Fences composed of woven wire, wire netting or wire mesh shall be of sufficient closeness of mesh density as to contain the intended animals or fowl.
- (b) No owner, keeper, harborer, or maintainer of a dog shall allow that dog to remain in the yard of any property unless the dog is under restraint, as defined in section 2.105.010, or confined as provided in this section:
 - (1) If the dog is not under supervision while remaining in the yard of any property, the dog must be securely confined by enclosed fencing or in a securely enclosed and locked pen, structure, or run. Such fencing or pen, structure, or run must be suitable for preventing the animal from escaping. A locked pen, structure, or run must have minimum dimensions of five feet by ten feet and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be embedded into the ground no less than 12 inches. The enclosure must also provide protection from the elements for the dog.
 - (2) If the dog is confined to the residential property of the owner, keeper, harborer or maintainer by an electronic fence or an electronic collar, the dog shall not be permitted in the front yard. Front yard means the open space on the same lot with a building used as a residence between the front wall of the building and the line of that wall extended to the side property lines of the lot nearest the street on which the building fronts. For residences situated on corner lots the dog shall not be permitted to be nearer than ten feet away from any public street or sidewalk adjacent to the side or rear yard of the lot. Side yard means the space on the same lot with a building used as a residence between the sidewall of the building and the side property line of the lot nearest the adjacent public street and extending from the front yard to the rear property line. Rear yard means the open space on the same lot with a building used as a residence between the rear wall of the building and the line of that wall extended to the side property lines of the lot, and the rear property line.
 - (3) If the dog is confined to the residential property of the owner, keeper, harborer or maintainer by an electronic fence or an electronic collar, then the owner, keeper, harborer or maintainer shall post a sign within view of any person using the sidewalk or the public street passing in front of or to the side of or to the rear of such residential property stating "ELECTRONIC FENCE IN USE" in contrasting colors. Each sign shall be not more than four square feet nor less than one square foot in size, either single or double faced with not less than 100-point font. Signs shall be located a minimum of ten feet back from the edge of pavement.
 - (4) No dog having been found or deemed to be a dangerous dog, as defined by section 2.105.060, shall be confined by an electronic fence or an electric collar. Electronic collars may not be used to control a dog when it is off the owner's, keeper's, harborer's or maintainer's property.

(Ord. No. 4.022, § 2, 2-26-2007; Ord. No. 4.213, 6-25-2012)

Sec. 2.105.110. Unattended animals left in vehicles; rescue by animal control supervisor or ~~police~~public safety officer.

It shall be unlawful to confine any animal in a motor vehicle or trailer, under weather or other conditions that endanger its life. Whenever an animal is found in such circumstances that the supervisor of animal control or

a ~~police~~~~public safety~~ officer determines to be endangering to the animal's life, an animal control officer, with the assistance of a ~~police~~~~public safety~~ officer, is authorized to enter such vehicle or trailer and rescue the animal, and to impound the animal under the provisions of section 2.105.060. In making such rescue, and after making a reasonable effort to locate the owner of the motor vehicle or trailer, the ~~police~~~~public safety~~ officer assisting in the rescue may take such steps as are reasonable to obtain entry to the vehicle or trailer, including the release or breaking of locks or windows. A written notice of the impoundment of the animal shall be left with the vehicle.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.115. Unlawful to transport a dog or other animal in the open bed of a truck unless confined in a secure cage.

It shall be unlawful for any person to transport a dog or other animal in the open bed of a truck or similar open vehicle, or tethered in the open bed of any such vehicle, unless such dog or other animal is confined in a secure cage that is reasonably attached to the vehicle so that the cage cannot fall from the vehicle.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.120. Livestock and fowl running at large.

No person shall permit any livestock or fowl to run at large upon the streets, alleys or thoroughfares of the city, or upon property owned or occupied by another person without the consent of the owner of or person occupying such property.

(Ord. No. 4.022, § 2, 2-26-2007)

State law reference(s)—Animals running at large generally, RSMo, ch. 270; authority of third class cities to regulate running at large of animals, RSMo 77.510.

Sec. 2.105.130. Releasing or abandonment of animals or fowl.

No person shall release or abandon any animal or fowl to run at large upon the streets, alleys or thoroughfares of the city, or upon property owned or occupied by another person without the consent of the owner of or person occupying such property.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.140. Wild animals and fowl.

- (a) An owner of any wild animals or fowl, except for animals prohibited under section 2.105.185 of this chapter, shall obtain a special permit issued by the state wildlife conservation department and shall further register such animal or fowl with the city ~~public safety~~~~police~~ department.
- (b) Any wild animals or fowl shall not be permitted to run at large at any time within the city, and except when such animal or fowl is inside of a private building, it shall be kept in a soundly constructed pen which shall provide adequate shelter against weather and the elements, and which pen shall be enclosed on all sides in such manner as to prevent the escape of such animal or fowl.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.150. Injuring or capturing of animals.

Except as necessary for (1) human safety; (2) relocation of nuisance animals through the use of box traps; (3) destruction of rats, mice, and other pests; (4) veterinary medical practice; (5) termination of suffering; or (6) performance of official duties by a ~~public safety~~ police or animal control employee, it shall be unlawful to deliberately injure or kill, capture or trap, expose to a poisonous substance, or poison any animal. Further, it shall be unlawful to attempt any of the foregoing acts.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.160. Keeping horses, livestock and fowl.

Horses, livestock and fowl must be kept on a lot containing at least three acres under the following conditions. Livestock may be kept on less than three acres upon obtaining a special use permit. All applications for a special use permit shall be submitted to the animal control officer for investigation and recommendations prior to approval by the city council. Horses, ponies, cattle, hogs, mules, sheep, goats and other animals shall be kept in a detached accessory building which shall be located not less than 100 feet from any street, and not less than 50 feet from any property line. Not more than one horse, pony, cattle, hog, mule, sheep, goat or other animal shall be kept on each 10,000 square feet of land area. Not more than 25 fowl shall be kept on each 20,000 square feet of land area. Fowl shall not be kept or housed within 30 feet of a street or property line.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.170. Riding of horses or other animals.

No person shall ride a horse or other animal on North Oak Trafficway, Northeast or Northwest 72nd Street, North Prospect, North Flora, Shady Lane, Antioch Road, Broadway or Englewood Road in the city limits, Northeast 65th Street from North Flora to North Howard, Northeast 64th Street from North Howard to North Antioch Road, nor within any shopping center, public park or school grounds, except when a special permit providing for such riding has been issued by the city council. Horses or other animals shall not be ridden on any city street prior to sunrise or after sundown.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.180. Rental pastures.

No person shall operate a rental pasture within the city limits without a special permit issued by the city council. Such permit shall not be issued until the request has been forwarded to the animal control officer for investigation and recommendations. Requests for rental pasture permits shall set out the number of square feet of fenced pasture and the exact location thereof. The permit, if issued, shall contain the maximum number of animals allowed to be pastured on the land at any given time. The owner of the pasture shall be responsible for any animal's escaping from the designated pasture area.

(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.185. Exemption of hospitals, etc., from certain provisions.

Hospitals, clinics and other facilities operated by licensed veterinarians for the care and treatment of animals and fowl are exempt from section 2.105.030. The licensing provisions of this chapter shall not apply to nonresidents of the city unless they keep a dog within the city for a period of 30 days or more.

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(Ord. No. 4.022, § 2, 2-26-2007)

Sec. 2.105.190. Penalties; minimum fines.

- (a) Any person found guilty of violation of any section of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$50.00 nor more than as provided in section 1.100.140 for each separate violation, except that such minimum fine upon conviction for violation of section 2.105.050 shall not be less than \$300.00; except that, in the case of any violation due to an attack or biting of a person by an animal that was not confined or restrained in accordance with the provisions of this chapter, the minimum fine shall be \$500.00.
- (b) Upon conviction of failure to comply with the provisions of section 2.105.050, the municipal judge may order that the dangerous animal be humanely killed, and direct the animal control officer or ~~police~~public safety officer to enforce such order, which order by the judge may be in addition to any other penalty authorized by law.

(Ord. No. 4.022, § 2, 2-26-2007)

CHAPTER 110. NUISANCES

ARTICLE 1. IN GENERAL

Sec. 2.110.010. Maintenance prohibited.

Any person who shall create, commit, permit or continue a nuisance of any kind, nature or description in, upon or about any private property in the city, which does or could endanger life or limb, damage or depreciate the value of property, real or personal, or annoy or disturb the owners of property in or about the area where such nuisance exists, shall be deemed guilty of a misdemeanor.

(Code 1974, § 20-1)

Sec. 2.110.020. Inspection of premises authorized; abatement procedure.

- (a) The building inspector, the ~~Chief of Police, the Fire Chief~~director of public safety and the city manager ~~and/or his/her designee~~, and their representatives, are hereby authorized to examine and survey all buildings, structures and premises within the city between the hours of 8:00 a.m. and 8:00 p.m., except Sunday, subject to the following conditions:
 - (1) Inspection shall be allowed only if a complaint has been received by one of the above named officials and in the opinion of that official there are reasonable grounds to believe that a violation exists.
 - (2) Such inspection is part of a regular inspection program whereby certain areas of the city are being inspected at the direction of the appropriate official or the city manager.
 - (3) Inspection shall be made by the appropriate official or the city manager, or by their duly authorized representatives.
 - (4) Any person making an inspection shall furnish to the owner or occupant of the building, structure or premises sought to be inspected sufficient identification and information to enable such owner or

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occupant to determine that such person is an authorized city representative and the purpose of the inspection.

- (5) If the owner or occupant shall refuse to allow entry to the appropriate official, city manager or representative, such officer may apply to a court of competent jurisdiction for a search warrant or other legal process for the purpose of securing entry.
- (b) The municipal judge may direct the owner or occupant of the premises by written notice to remove, discontinue or abate any nuisance within 48 hours after service of such written notice, and any person who shall fail to eliminate such nuisance within 48 hours after service of such notice shall be deemed guilty of a misdemeanor, and each day thereafter such nuisance is maintained shall constitute a separate offense. Nothing in this section shall be construed to prevent prosecution under section 2.110.010 without notice as provided in this subsection, and abatement of the nuisance as provided in this section will not operate to prevent prosecution therefor as provided by section 2.110.010.

(Code 1974, § 20-2)

State law reference(s)—Authority of city council in third class cities to abate nuisances, RSMo 77.530, 77.560.

ARTICLE 2. WEEDS AND OTHER RANK VEGETATION²⁶

²⁶Cross reference(s)—Property maintenance, § 9.1000.010Cross reference(s)— et seq.; community forestry plan, § 9.1200.010Cross reference(s)— et seq.; native plantings, § 9.1900.010Cross reference(s)— et seq.

State law reference(s)—Authority to cause removal of weeds or trash, RSMo 71.285.

Sec. 2.110.030. Removal of weeds from the public rights-of-way along improved streets.

Property owners adjacent to public rights-of-way along improved streets shall remove or cause to be removed weeds or grasses from the public rights-of-way in accordance with the requirements of this article. Any property owner along a public right-of-way that contains a drainageway having such width, depth or slope to create a defined channel and which cannot be mowed or maintained by a normal residential mower or weed removal tool shall not be subject to this requirement. Property owners shall be responsible for the maintenance of the public rights-of-way including but not limited to mowing, seeding, sodding and plantings. All such maintenance shall be maintained in a neat and professional manner.

(Ord. No. 3.529, § 1(34.1000.700), 7-8-1996)

Sec. 2.110.040. Notice to remove weeds and other rank vegetation under certain conditions and hearing.

Upon a determination by the city manager or the city manager's representative that any owner or occupant of premises within the city has caused or allowed weeds or other rank vegetation to grow or to stand upon such premises and/or adjacent public right-of-way higher than permitted in this article, the city manager or the city manager's representative shall notify the owner of such premises by certified mail or by the posting of such notice on the premises that a hearing will be afforded such owner before the city manager or the city manager's representative on the date and time indicated. In no instance shall such hearing be conducted sooner than ten days after the mailing or posting of such notice. Such notice shall also recite that weeds or other rank vegetation that has been caused or allowed to grow or stand higher than 18 inches on undeveloped property or 12 inches on property containing a structure and/or a parking area, property used for residential, commercial, or industrial purposes, and/or property adjacent to a public right-of-way, may be removed by the city. The cost thereof may be charged to the property owner as a tax bill if the owner does not remove such weeds or other rank vegetation, and that such tax bill shall constitute a first lien upon such premises. The existence of the following plant growth shall constitute a nuisance, regardless of volume or height: poison ivy, poison oak, sumac, and plants containing thistles or other vegetation that may raise lesions upon brief contact by a person with the plant material or secretion from the plant.

(Ord. No. 3.529, § 1(34.1000.710), 7-8-1996)

Sec. 2.110.050. Declaration of nuisance and order of abatement.

Upon the hearing provided for in section 2.110.040 at which evidence of the existence of weeds or other rank vegetation in violation of this article is presented, the city manager or the city manager's representative may declare that such weeds or vegetation constitute a nuisance, that the property owner is ordered to abate such nuisance within five days, and that if such nuisance is not abated within five days, the city manager shall cause the weeds or other vegetation to be removed with the costs thereof to be certified to the city council.

(Ord. No. 3.529, § 1(34.1000.720), 7-8-1996)

Sec. 2.110.060. Abatement of nuisance by property owner or by city manager.

If the weeds or other rank vegetation are not removed from the premises within five days of the date of the hearing or such later date as allowed by the city manager or the city manager's representative as a result of a determined hardship not caused by the owner, the city manager shall cause such weeds or other rank vegetation to be removed.

(Ord. No. 3.529, § 1(34.1000.730), 7-8-1996)

Sec. 2.110.070. Notice to owner of nuisance abatement by city; certification of cost of removal to city council.

If the city manager shall cause weeds or other rank vegetation to be removed from premises within the city pursuant to the provisions of this article, the city manager shall cause a notice to be served upon the owner of the premises by regular mail. Such notice shall detail the costs and expenses incurred by the city in abating the nuisance, demand that such costs be paid to the city within 30 days after mailing of such notice and declare that if unpaid after 30 days such costs and expenses shall be certified to the city council. If payment is not received for the costs and expenses incurred by the city within 30 days after the mailing of such notice, the costs and expenses incurred by the city shall be certified to the city council.

(Ord. No. 3.529, § 1(34.1000.740), 7-8-1996)

Sec. 2.110.080. Adoption of ordinance by city council authorizing preparation and collection of special tax bill.

Upon the certification to the city council by the city manager of the costs and expenses incurred by the city in removing the weeds or other rank vegetation from premises within the city, the city council shall adopt an ordinance reciting that notice was given to the owner of the premises, that a hearing was afforded to the owner of the premises, the determination by the city manager or the city manager's representative that the weeds or other rank vegetation constitute a nuisance, that the removal of such weeds or other rank vegetation by the city, and the certification of the costs to the city council by the city manager. Such ordinance shall direct the city manager to cause a special tax bill to be prepared in the amount of the costs and expenses incurred by the city and to be collected by the city collector.

(Ord. No. 3.529, § 1(34.1000.750), 7-8-1996)

Sec. 2.110.090. Collection of special tax bill by city collector; creation of lien.

The city manager shall issue the special tax bill and notify the city collector of the city council's action and the passage of an ordinance pursuant to the provisions of this article. The city collector shall append the regular tax bill of such property owner with the charges incurred due to the city's removal of the weeds and/or rank vegetation. Such notification to the city collector shall be made on or before June 1 of each year. The tax bill prepared pursuant to this article shall be a lien on the property from the date of its issuance until paid and shall be prima facie evidence of the recitals therein and of its validity. No mere clerical error or informality in the tax bill, or in the proceedings leading up to the issuance, shall be a defense thereto. Such tax bill, if not paid when due, shall bear interest at the rate of eight percent per annum.

(Ord. No. 3.529, § 1(34.1000.760), 7-8-1996)

ARTICLE 3. JUNKED MOTOR VEHICLES²⁷

²⁷Cross reference(s)—Traffic code, title IV.

Sec. 2.110.100. Public nuisances defined and prohibited: penalties for violations of prohibition.

- (a) It shall be unlawful for any person to cause, allow, or permit any of the following objects or conditions to exist upon property owned, leased, rented, controlled or occupied by such person, (unless such objects are within an enclosed structure; i.e.: garage) or on or along any public street, all of which are hereby declared to be public nuisances:
- (1) Junk, as defined in this article;
 - (2) Any motor vehicle which is not immediately operable under its own power;
 - (3) Any partially dismantled motor vehicle, whether or not operable;
 - (4) Any parts or components of motor vehicles, including but not limited to tires, wheels, motor vehicle bodies, frames or parts, or motor vehicle motors and engines;
 - (5) Any motor vehicle, which is not immediately operable under its own power or which does not have displayed on it a current state registration or license plate, remaining on a street for more than 72 hours;
 - (6) Any motor vehicle parked on the unpaved surface of any property; and
 - (7) Any unlicensed motor vehicle on private property.
- (b) Every person convicted of violating this section shall be punished for a municipal ordinance violation as provided for in section 1.100.140(e)(2) of this Code.

(Ord. No. 3.529, § 1(34.1000.900), 7-8-1996; Ord. No. 4.364 , § 3, 8-22-2016)

Sec. 2.110.110. Service and contents of abatement notice.

Whenever the city manager or the city manager's duly authorized representative shall determine that a nuisance as defined in this article exists. Such official shall thereupon cause written notice to be served by mail or by personal service on the person determined to be responsible for such nuisance if such person can be located. Such notice shall describe the nuisance as defined within the provisions of section 2.110.100 and shall briefly state the facts which are deemed to create such a nuisance, and further state that such nuisance shall be abated within seven days from receipt of such notice.

(Ord. No. 3.529, § 1(34.1000.910), 7-8-1996)

Sec. 2.110.120. Duty of owner to remove; removal by city at expense of owner, etc.; application of money received from disposal.

It shall be the duty of any person receiving the notice provided for in this article to comply with the provisions of the notice and to abate such nuisance within seven days after the date of the receipt of such notice. If such persons shall fail or refuse to abate such nuisance within seven days from receipt of such notice, such failure is hereby declared to be unlawful and such vehicle or junk shall be removed and disposed of at the direction of the city manager or the city manager's duly authorized representative at the expense of the person responsible for the creation of such nuisance. Any money received by the city from abating the nuisance shall be applied to the expenses to be charged to the person responsible for creating the nuisance.

(Ord. No. 3.529, § 1(34.1000.920), 7-8-1996)

Sec. 2.110.130. Disposition where owner unknown.

When the person responsible for the creation of the nuisance cannot be located by reasonable search, the notice specified above in section 2.110.120 shall be attached to the nuisance. If such nuisance is not removed within seven days from such notice, such nuisance is hereby declared to be abandoned property and shall be removed at the direction of the city manager or the city manager's duly authorized representative to a suitable city storage area designated by the city manager. Such property shall be stored for a period of at least 15 days and the owner thereof shall be entitled to redeem the property by payment to the city of actual costs for its removal and reasonable storage. In the event such property is unredeemed, the city manager shall dispose of it in accordance with law.

(Ord. No. 3.529, § 1(34.1000.930), 7-8-1996)

Sec. 2.110.140. Tearing down, stripping, etc., of motor vehicle prohibited; exceptions.

The tearing down, stripping, junking, storage, repair or servicing of vehicles is prohibited unless such use is shown to be specifically authorized, permitted or licensed under other provisions of this Code, or unless necessary repairs are being made by an owner to their own vehicle and are completed within seven days. This section shall not apply to the tearing down, stripping, junking, storage, repair or servicing of vehicles when such is done by the owner of such vehicle entirely within the confines of an enclosed area, between the hours of 7:00 a.m. and 10:00 p.m.

(Ord. No. 3.529, § 1(34.1000.940), 7-8-1996)

Sec. 2.110.150. Interference with enforcement of article.

It shall be unlawful for any person to interfere with, hinder or refuse to allow the city manager or the city manager's duly authorized representative to enter upon private property for inspection or for the purpose of removing any nuisance in accordance with this article.

(Ord. No. 3.529, § 1(34.1000.950), 7-8-1996)

ARTICLE 4. APARTMENTS

Sec. 2.110.160. Purpose or findings.

The city council hereby finds as follows:

- (1) The repeated commission of criminal offenses and violations of the city's Municipal Code substantially annoys and injures the health, comfort, repose and safety of the public.
- (2) The failure of owners of certain real property to control the activity occurring on their property causes repeated and substantial expenditures of public funds in order to enforce state, federal and city laws upon or near their property. Among the property management practices that contribute to the existence of activities which disturb neighborhoods are the failure of owners or managers of real property to require tenants to obey laws as a condition of leases, the failure to enforce existing provisions of leases, the failure of owners or managers to respond to or take affirmative steps to address complaints by adjoining owners and the overall tolerance by owners or managers of criminal activity on property by tenants or their guests, all of which substantially annoys and injures the health, comfort, repose and safety of the public.

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- (3) The decline in or possible depression of surrounding property values and the expenditures of public funds results in part from the fact that certain property owners or managers fail to adequately manage and control their property.
 - (4) The provisions of this article will assist the city in the long term to renew certain neighborhoods by lessening the expenditures of public funds, increasing property values, preserving the tranquility of neighborhoods, and deterring property owners and managers from adopting inadequate management practices.

(Ord. No. 4.252, 9-23-2013)

Sec. 2.110.170. 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. Where terms are not defined in this chapter and are defined in the building code or residential code, such terms shall have the meaning ascribed to them as in those codes. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Apartment means a room used as a residence and located in a building containing only such rooms or suites with necessary passage and hallways.

Apartment building (hereinafter "apartments") means a building containing more than four apartments.

Apartment community means property or premises under common ownership with two or more apartment buildings designed, built, rented, leased, let or hired out to be occupied or that are occupied, as residences.

City means the City of Gladstone, Missouri.

Days means consecutive calendar days.

~~*Director of public safety* means the Director of Public Safety of the City of Gladstone or his designee.~~

Locally means within 40 road/driving miles distance of the subject property.

Manager means any on-site or in-residence person or real estate management company charged with the responsibility of managing the day-to-day operations of apartments.

Nuisance activities means any of the following activities, behaviors, or conduct, as defined by Missouri State Statutes and/or city ordinances where a violation has been documented, a citation is given, or an arrest is made:

1. Violations of chapter 105, Animal Regulations	Section 2.105.010 of Gladstone Code
2. An attempt to commit an offence listed herein	Section 3.100.050 of Gladstone Code
3. Open burning	Section 3.100.170 of Gladstone Code
4. Interference with an officer	Section 3.105.030 of Gladstone Code
5. Sexual misconduct	Section 3.115.010 of Gladstone Code
6. Sale or distribution to minors	Section 3.115.020 of Gladstone Code
7. Assault offenses	Section 3.120.010 of Gladstone Code
8. Harassment	Section 3.120.020 of Gladstone Code
9. Property damage	Section 3.125.010 of Gladstone Code
10. Stealing	Section 3.125.020 of Gladstone Code
11. Trespassing	Section 3.125.050 of Gladstone Code
12. Disturbing the peace	Section 3.130.010 of Gladstone Code

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13. Drug paraphernalia	Section 3.130.020 of Gladstone Code
14. Explosive devices	Section 3.130.040 of Gladstone Code
15. Marijuana possession	Section 3.130.050 of Gladstone Code
16. Rioting	Section 3.130.070 of Gladstone Code
17. Simulated drugs	Section 3.130.080 of Gladstone Code
18. Unlawful use of weapons	Section 3.135.010 of Gladstone Code
19. Unlawful possession of a weapon	Section 3.135.020 of Gladstone Code
20. Threatening	Section 3.135.040 of Gladstone Code
21. Discharging weapons	Section 3.135.050 and 3.135.060 of Gladstone Code
22. Sale of weapons to minor	Section 3.135.070 of Gladstone Code
23. Fair housing	Section 3.140.010 of Gladstone Code
24. Endangering welfare of a child	Section 3.145.010 of Gladstone Code
25. Violation of order of protection	Section 3.110.202 of Gladstone Code
26. Municipal code violations	Section 10.200.000 of Gladstone Code
27. Permitting possession of alcohol	RSMo 311.310
28. Assault 3rd Degree	RSMo 565.070
29. False imprisonment	RSMo 565.130
30. Interference with custody	RSMo 565.150
31. Stalking	RSMo 565.225
32. Invasion of privacy 2nd	RSMo 565.253
33. Offenses against public order	RSMo Ch. 574
34. Abandonment of icebox	RSMo 577.100
35. Animal abuse	RSMo 578.012

Aggravated nuisance activities means any of the following activities, behaviors, or conduct as defined by state, or municipal statute and/or ordinance where a citation is given, an arrest is made or a violation has been documented:

- (1) Homicide as provided in RSMo Ch. 565.
- (2) Assault as provided in RSMo Ch. 565.
- (3) Sexual offenses as provided in RSMo Ch. 566.
- (4) Drug offenses as provided in RSMo Ch. 195.
- (5) Prostitution as provided in RSMo Ch. 567.
- (6) Offenses against the family as provided in RSMo Ch. 568.
- (7) Robbery, arson, or burglary as provided in RSMo Ch. 569.
- (8) Stealing as provided in RSMo Ch. 570.
- (9) Weapons as provided in RSMo Ch. 571.
- (10) Gambling as provided in RSMo Ch. 572.
- (11) Pornography as provided in RSMo Ch. 573.
- (12) Miscellaneous state offenses including:
 - a. Harassment as provided in RSMo Ch. 565.090.
 - b. Cross burning as provided in RSMo Ch. 565.095.

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- c. Kidnapping as provided in RSMo Chs. 565.100 and 565.110.
 - d. Felonious restraint as provided in RSMo Ch. 565.120.
 - e. Parental kidnapping as provided in RSMo Ch. 565.153.
 - f. Child abduction as provided in RSMo Ch. 565.156.
 - g. Elder abuse as provided in RSMo Chs. 565.180, 565.182, and 565.184.
 - h. Vulnerable person abuse as provided in RSMo Chs. 565.210, 565.212, and 565.214.
 - i. Invasion of privacy as provided in RSMo Ch. 565.252.
 - j. Leaving the scene of a shooting as provided in RSMo Ch. 577.068.
 - k. Dogfighting as provided in RSMo Ch. 578.025.
 - l. Cockfighting as provided in RSMo Ch. 578.050.

Nuisance property means any property on which aggravated nuisance activity or nuisance activity has occurred as provided in section 2.110.170.

Owner means any person, sole proprietorship, general partnership, corporation, limited liability company or limited liability partnership having a legal interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court or by the trustee of any trust owning property.

Person means any natural person, agent, association, firm partnership, corporation or other entity capable of owning, occupying, or using property in the City of Gladstone.

Registered representative means a person located locally and designated by the property owner as the owner's representative for purposes of accepting notice, service, and summons on behalf of the property owner and for otherwise ensuring compliance with the requirements of this chapter.

Residential rental property means a building, or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, multiple dwellings, mobile homes, house trailers, boarding and lodging houses, apartment houses, and apartment hotels, but not hotels, motels, recreational vehicles or fifth wheels unless they are being used legally as a primary residence, that an owner rents, leases or allows another to use or occupy.

| *Safe residence form* means the reporting process utilized by ~~police~~public safety officers responding to complaints at rental properties.

Vacant means a building/structure that is not legally occupied.

(Ord. No. 4.252, 9-23-2013)

Sec. 2.110.180. Nuisance property violation.

| Any apartment, apartment building, or apartment community on which nuisance activity, as defined in section 2.110.170, occurs may be declared a nuisance property. Any owner and/or registered representative of apartment, apartment building, or apartment community who (1) permits or encourages a property to become a nuisance property as defined herein; (2) allows a property to continue as a nuisance property; or (3) fails to implement reasonable measures as specified by the ~~director of public safety~~Chief of Police, shall be in violation of this chapter. Every day that a violation of this article continues may be considered a separate and distinct offense.

(Ord. No. 4.252, 9-23-2013)

Sec. 2.110.190. Procedure.

No owner or registered representative shall be prosecuted for a violation of section 2.110.180 until the ~~director of public safety~~Chief of Police, or his designee, shall serve such owner or registered representative with the notice provided herein, and the owner or registered representative has either failed, or refused, to enter into the nuisance abatement agreement, provided for hereinafter, or after entering into such agreement, the owner or registered representative fails to comply with its provisions. Such notice may be served on any owner or registered representative by certified mail to the address provided in the rental registration form on file with the city or by personal service. Such notice shall contain, at a minimum, the following:

- (1) That a nuisance exists, as defined by section 2.110.170, at the location specified in the notice.
- (2) The date of the commission of the acts which constitute the basis for the nuisance, the names(s) of the person(s) committing such acts, if known, and all other facts and circumstances that the city relies upon to allege that such acts form the basis for the nuisance property violation.
- (3) The date, time and place where the owner or registered representative is to appear, and meet with the ~~director of public safety~~Chief of Police, or his designee, to participate in the nuisance abatement conference.
- (4) That failure to appear, or failure to make satisfactory arrangements for an alternative date and time, at the time and place designated in the notice may result in prosecution of a violation of section 2.110.180 and the imposition of penalties, as proscribed by this chapter and the Code of Ordinances.

(Ord. No. 4.252, 9-23-2013)

Sec. 2.110.200. Nuisance abatement conference.

At the nuisance abatement conference, the ~~director of public safety~~Chief of Police, or his designee, and the owner and/or registered representative, shall discuss the facts constituting the nuisance and shall attempt to agree on specific actions that the owner and/or registered representative can take to abate said nuisance.

(Ord. No. 4.252, 9-23-2013)

Sec. 2.110.210. Nuisance abatement agreement.

- (a) At the conclusion of the nuisance abatement conference, the ~~director of public safety~~Chief of Police, or his designee, shall submit to the owner and/or registered representative a proposed written nuisance abatement agreement. If at the conclusion of the conference, or conferences, the ~~director of public safety~~Chief of Police, or his designee, needs more time to draft a proposed agreement, or if the owner and/or registered representative needs more time to consider the proposed abatement measures or abatement agreement, then a follow-up meeting shall be scheduled with the owner and/or registered representative within ten days of the initial conference for submittal and review of the completed proposed nuisance abatement agreement.
- (b) Any nuisance abatement agreement under this chapter shall include a list of specific actions and specific schedule of deadlines for said actions to abate the nuisance. It may also include provisions for a periodic reassessment of the agreement effectiveness, and the procedure for a modification of the agreement. A nuisance abatement agreement or any written modification to said agreement may impose conditions or requirements on the owner and/or registered representative for a period of 12 months from the date the original agreement is entered into by the owner and/or registered representative and the city. A nuisance

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abatement agreement may impose one or more of the following conditions or requirements or such other requirements as may be appropriate, on the owner and/or registered representative:

- (1) Eviction of identified individuals from the dwelling in question;
 - (2) Written notification from the owner and/or registered representative to an identified individual or individuals that they are prohibited from entering onto the premises of the dwelling;
 - (3) Utilization of written leases containing the crime free lease addendum, a provision or provisions requiring eviction for criminal activity and the safe residence program;
 - (4) The completion of improvements upon the premises of the dwelling which have the impact of mitigation of crime, including but not limited to, the erection of fences, installation of security devices upon the entrances, or increased exterior and interior lighting, deadbolt locks, door eye viewers, three-inch strike plate screws, window locks or pins, and sliding door safety mechanisms;
 - (5) Mandatory reporting of all crime at rental property known to the owner and/or registered representative to have occurred;
 - (6) Attendance at management training course;
 - (7) Safety socials co-sponsored by ~~public safety~~police department and the owner or registered representative;
 - (8) Any other reasonable condition or requirement agreed to by the ~~director of public safety~~Chief of Police, or his designee, and the owner and/or registered representative designed to assist in abating a nuisance;
 - (9) Participation in and demonstrated progress towards full certification in the National Crime Free Multi Housing Program;
 - (10) Use of criminal background checks of prospective tenants;
 - (11) Crime prevention through environmental design education;
 - (12) Maintain a rent roll to include the name of tenants, the name of all adults living in the apartment, the number of children living in the apartment and contact information for the tenant to be presented to law enforcement upon request;
 - (13) Code enforcement inspection assistance;
 - (14) Address any existing city building code violations; and
 - (15) Unit inspections upon change in occupancy.
- (c) Once a proposed written nuisance abatement agreement or written modification to nuisance abatement agreement has been submitted to the owner and/or registered representative, said owner and/or registered representative shall, within 72 hours, exclusive of weekends, of receipt unless extenuating circumstances make execution of the agreement not possible, but in any event not later than five business days of receipt, sign and return the agreement to the ~~director of public safety~~Chief of Police.

(Ord. No. 4.252, 9-23-2013)

Sec. 2.110.220. Commencement of prosecution.

The ~~director of public safety~~Chief of Police or his designee may commence prosecution alleging a violation of this chapter under the following circumstances:

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- (1) The owner and/or registered representative does not attend a conference with the city within the time period described previously;
 - (2) The owner and/or registered representative fails or refuses to sign a proposed written nuisance abatement agreement or proposed written modification to said agreement within the prescribed time period set forth in this section;
 - (3) The owner and/or registered representative subsequently fails or refuses to comply with any conditions or requirements set forth in a nuisance abatement agreement, including any prescribed deadlines for taking particular actions;
 - (4) When more than four instances of nuisance activity occur within any six-month period of time;
 - (5) A violation of section 2.110.230;
 - (6) Prosecutions will proceed as provided in section 2.110.250.

(Ord. No. 4.252, 9-23-2013)

Sec. 2.110.230. Aggravated nuisance property violations.

- (a) Any property on which aggravated nuisance activity, as defined in section 2.110.170, occurs may be declared nuisance property.
- (b) Any owner or registered representative of apartments who (1) permits or encourages a property to become an aggravated nuisance property as defined herein; (2) allows a property to continue as an aggravated nuisance property; or (3) fails to implement reasonable measures as specified by the ~~director of public safety~~Chief of Police, shall be in violation of this chapter.

(Ord. No. 4.252, 9-23-2013)

Sec. 2.110.240. Enforcement.

When the ~~director of public safety~~Chief of Police receives one or more safe residence report forms detailing an aggravated nuisance instance, he/she may, at his/her discretion:

- (1) Refer the report for purposes of nuisance abatement as provided in sections 2.110.190, 2.110.200, and 2.110.210; or
- (2) Refer the report for prosecution as provided in section 2.110.220.

(Ord. No. 4.252, 9-23-2013)

Sec. 2.110.250. Hearing proceedings in municipal court/commencement of prosecution.

- (a) *Burden of proof.* At any hearing before the hearing officer, the city shall have the initial burden of proof to show, by a preponderance of evidence, that the property is a nuisance property.
- (b) *Tenant notice.* If a property owner or registered representative is summoned before the hearing officer due to nuisance property, the director shall give notice, in writing, to all of the tenants of that property. Said notice shall provide the following:

The physical address of the property; the date and time that the property owner or registered representative is to appear before the housing court, the fact that the appearance is due to alleged nuisance activity; and the possible sanctions that may be imposed upon the property owner. The notice shall be delivered, either

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personally or by U.S. mail, to each tenant on the property or it must be posted in a prominent location on the property where the tenants(s) are likely to see it.

- (c) *Hearing procedure.* Such a hearing shall be held in accordance with the procedures as specified in RSMo 536.100 et seq. An attorney representing the city shall present evidence in support of its claim that the property is a nuisance property. The owner or registered representative shall be permitted to rebut such evidence and present any other evidence that is, in the discretion of the hearing officer, relevant and reliable.
- (d) *Findings, decision and order.* At the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented at the hearing, whether or not a violation of section 2.110.030 or 2.110.080 exists. The determination shall be in writing and shall be designated as the findings, decisions, and order. The hearing officer's decision shall be final and binding, except that the administrative review law, as specified herein, shall be applicable. The findings, decision and order shall include the hearing officers findings of fact, a decision whether or not a violation of section 2.110.030 or 2.110.080 exists based upon the finding of fact, and an order for abatement of the nuisance activity or sanctioning the owner or registered representative as specified in subsection (e) below, or dismissing the case in the event a violation is not proved.
 - (1) A copy of the findings, decision, and order shall be served upon the owner or registered representative within ten business days. Service shall be in person or by certified mail to the address provided in the rental registration filed with the city.
 - (2) Payment of any penalty or fine shall be made to the city municipal court clerk.
 - (3) In the event that the order provides for the abatement of nuisance activity, the hearing officer shall establish a status date, which would be after the date established for the abatement of the nuisance activity, in order to determine whether there has been compliance with the order. At such time, the hearing officer shall hear testimony and accept any evidence relevant to the compliance with the order and continued abatement of the nuisance activity.
- (e) *Remedies.* If the hearing officer makes a finding that a property was, or is, a nuisance property, he may impose any or all of the following remedies:
 - (1) Fine the owner or registered representative not less than \$200.00 and not more than \$500.00 for each violation of this section. Each day a nuisance activity occurs or continues shall be considered a separate and distinct violation. The hearing officer may, at his discretion, impose such a fine for each day the nuisance activity goes unabated. No person shall be found in violation of this section unless the city proves by a preponderance of the evidence that the owner or registered representative failed to take reasonable and warranted measures to abate the nuisance activity. In establishing the amount of any fine, the hearing officer may consider any of the following factors:
 - a. The actions taken by the owner or registered representative to mitigate or correct the nuisance activities at the property.
 - b. The repeated or continuous nature of the problem.
 - c. The magnitude or gravity of the problem.
 - d. How cooperative the owner or registered representative is with the city.
 - e. The cost to the city of investigation, correcting or attempting to correct the nuisance activities.
 - f. Any other factor deemed relevant by the hearing officer. Evidence of a property's general reputation and/or the reputation of the persons in or frequenting it shall be admissible.
 - (2) Order the owner or registered representative to take reasonable, timely and lawful measures to abate the nuisance activity, including specifying deadlines for the same, and in furtherance thereof, may

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order a period of continued compliance wherein the matter will be returned before the hearing officer to update him/her as to the continued nuisance-free status of the property for a period of up to one year. The following measures to abate the nuisance may be ordered by the hearing officer:

- a. Eviction of identified individuals from the dwelling in question;
 - b. Written notification from the owner and/or registered representative to an identified individual or individuals that they are prohibited from entering onto the premises of the dwelling;
 - c. Utilization of written leases containing the crime free lease addendum, a provision or provisions requiring eviction for criminal activity and the safe residence program;
 - d. The completion of improvements upon the premises of the dwelling which have the impact of mitigation of crime, including but not limited to, the erection of fences, installation of security devices upon the entrances, or increased exterior and interior lighting, deadbolt locks, door eye viewers, three-inch strike plate screws, window locks or pins, and sliding door safety mechanisms;
 - e. Mandatory reporting of all crime at rental property;
 - f. Attendance at management training course;
 - g. Safety socials co-sponsored by ~~public safety department~~ the Police and Fire Department and the owner or registered representative;
 - h. Any other reasonable condition or requirement designated to abate the nuisance;
 - i. Participation in and demonstrated progress towards full certification in the National Crime Free Multi Housing Program;
 - j. Use of criminal background checks of prospective tenants;
 - k. Crime prevention through environmental design education;
 - l. Using updated lists of tenants;
 - m. Code enforcement inspection assistance;
 - n. Address any existing city building code violations; and
 - o. Unit inspections upon change in occupancy.
- (3) The hearing officer may order a fine amount as provided above but then stay the paying of the fine on the condition that the owner or registered representative complete any measures to abate the nuisance activity as may be directed by the hearing officer. If after a time of not more than one year the owner or registered representative should fail to complete the abatement measures ordered by the hearing officer, then the hearing officer may withdraw the stay and order the fine be paid immediately.
- (4) Order that a vacant or unused nuisance property of whatever use or a vacant lot which is a nuisance property, whether residential or commercial, be closed and secured against all unauthorized access, use, and occupancy. The hearing officer may order that the property be closed and secured against all unauthorized access, use and occupancy for a period of up to one year. The hearing officer may further require that the nuisance property be fenced and/or gated to physically restrict access. He may also require the hiring of security personnel to assure there is no unauthorized access, use, and occupancy.
- (5) Issue an order to close and secure any apartments against all use or occupancy for a period of not less than 60 days, nor more than one year.

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- (f) The hearing officer shall require each owner or registered representative who is found to have violated this article to attend the next available landlord training class as administered by the city ~~police department~~department of public safety or any other entity designated by the city.

(Ord. No. 4.252, 9-23-2013)

Sec. 2.110.260. Retaliation prohibited.

- (a) It shall be unlawful for an owner or registered representative to terminate the lease agreement of a tenant or otherwise retaliate against any tenant if the motivating factor in the termination or other retaliatory action is because that tenant complained or otherwise notified the police department about nuisance activities at the owner's premises. Such eviction or retaliation shall be enforceable as a violation of this article.
- (b) It shall be unlawful for an owner to terminate a manager's employment if the motivating factor in the termination is because he/she complained or otherwise notified the police department about nuisance activities at the owner's premises. Such retaliation shall be enforceable as a violation of this article.

(Ord. No. 4.252, 9-23-2013)

Sec. 2.110.270. Action to abate penalties.

In addition to prosecution of the offense defined in this chapter or pursuing any other remedies available under this Code, the city counselor or his designee, upon receipt of reliable information that any apartment is being maintained as a nuisance may prosecute an action for equitable relief, in the name of the city, to abate the nuisance and to enjoin any owner or registered representative who shall own, rent, or occupy the dwelling in question from using or permitting its use in violation of the provisions of this chapter.

(Ord. No. 4.252, 9-23-2013)

CHAPTER 115. SOLID WASTE AND LITTER²⁸

²⁸Cross reference(s)—Utilities, § 6.110.010Cross reference(s)— et seq.; deposit of dirt, rock, rubbish, etc., on street, § 8.120.020Cross reference(s)—; building and construction, title IX.

State law reference(s)—Garbage disposal in cities of the third class, RSMo 71.680, 71.690.

ARTICLE 1. IN GENERAL

Division I. Generally

Sec. 2.115.010. 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:

Banned materials means materials banned from disposal in a solid waste disposal area under the provisions of the state statutes; currently includes major appliances, waste motor oil, lead-acid batteries, unprocessed waste tire, and (beginning January 1, 1992) yard waste, and (beginning January 1, 1994) household hazardous waste in amounts as determined by the state department of natural resources from time to time.

Bulky rubbish means nonputrescible solid wastes consisting of combustible and/or noncombustible waste materials from dwelling units and commercial, industrial, institutional or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded in solid waste transportation vehicles by the solid waste collector, with the equipment available therefor.

Collection means removal of solid waste from its place of storage to its place of processing or disposal.

Commercial solid waste means solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment and multiple housing facilities with more than four dwelling units.

Composting means a controlled process of microbial degradation of organic material into a stable, nuisance-free humuslike product.

Demolition and construction waste means waste materials from the construction or destruction of residential, industrial or commercial structures.

Director means the director of the solid waste management program of the city, or the director's authorized representative.

Disposable solid waste container means disposable plastic or paper sacks specifically designed for the storage of solid waste.

Dwelling unit means one or more rooms constituting all or part of a structure and which are arranged, designed, used, or intended for use exclusively as a single housekeeping unit for one family, or a congregate residence for ten or less persons which may include cooking, living, sanitation, and sleeping facilities.

Garbage means putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food.

Hazardous waste means any waste or combination of wastes which, because of its quantity, concentration or physical, chemical or infectious characteristics, may pose a threat to the health of humans or the environment. Examples include pesticides, acids, caustics, infectious wastes, flammable or explosive materials, oils and solvents, and similar chemicals and materials, and the containers and materials that have been contaminated with hazardous wastes.

Occupant means any person who occupies a particular building or premises.

Processing means incinerating, composting, baling, shredding, salvaging, compacting and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

Recyclable means any material that may be separated from the solid waste stream for sale, use, or reuse, whether or not it requires subsequent processing.

Recycling means the collection of recyclables, separate from solid waste and yard waste, for the purpose of sale, use, or reuse.

Residential solid waste means solid waste resulting from the maintenance and operation of dwelling units, excluding multiple housing facilities with more than four dwelling units.

Solid waste means unwanted or discarded waste materials in a solid or semisolid state, including but not limited to garbage, ashes, refuse, rubbish, dead animals, animal and agricultural wastes, discarded appliances, special wastes, industrial wastes and demolition and construction wastes.

Solid waste collector means the holder of any license to collect, transport or dispose of solid waste within the city.

Solid waste container means a container that shall be so constructed so as to adequately contain all contents placed therein without spillage, leakage or emission of odors while awaiting collection and meeting the specifications established by the director.

Solid waste disposal means the process of discarding or getting rid of unwanted material; in particular, the final disposition of solid waste by man.

Solid waste disposal area means any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing, recreational or governmental operations.

Solid waste management means the entire solid waste system of storage, collection, transportation, processing and disposal.

Special waste means nonhazardous waste requiring handling other than that normally used for municipal solid waste, including but not limited to contaminated soils, sludges, municipal wastewater treatment wastes, empty containers and incinerator ash.

Storage means keeping, maintaining or storing solid waste from the time of its production until the time of its collection.

Transportation means the transporting of solid waste from the place of collection or processing to a solid waste processing facility or solid waste disposal area.

Yard waste means leaves, grass clippings, yard and garden vegetation, Christmas trees and tree limbs less than four inches in diameter. The term does not include stumps, roots or shrubs with intact root balls.

(Ord. No. 3.721, § 1(16-1), 8-23-1999)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 2.115.020. Storing and accumulating on property, depositing in streets, streams, etc.

- (a) No person shall place or allow the deposit of, whether blown by the wind or otherwise, refuse in any street, alley, or other public place, or upon such person's property or upon the property of another in any event, and including such person's own property, place or permit an unreasonable accumulation of refuse nor place or permit refuse to accumulate; except, when contained in reasonably secure containers. No person shall throw or deposit refuse in any stream, lake, body of water or ravine. In any event, no person shall permit refuse to accumulate on such person's premises or on premises under such person's control in any quantity greater than that for which provision has been made for reasonably regular collection and disposal.

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- (b) No person shall cart, place, sweep or deposit anywhere within the city any refuse in such manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway or other public place or upon any occupied premises within the city.

(Ord. No. 3.529, § 1(34.1000.800), 7-8-1996)

Cross reference(s)—Streets and sidewalks, § 8.120.010Cross reference(s)— et seq.

Sec. 2.115.030. Storage containers required.

- (a) It shall be the duty of every person occupying, owning, operating, leasing, or renting any premises, or any structure where refuse accumulates to provide at all such locations facilities for the collection of refuse and to maintain such facilities in good order and repair such at all times. A reasonably secure container or containers for refuse shall be furnished and this shall mean, in connection with this section, and also section 2.115.020, a container made of metal, durable plastic or waterproof material, that will not easily corrode, that is rodentproof and fireproof and that has a tightly fitting lid. All containers shall be kept clean and free from accumulations of any substance which would attract or breed flies, mosquitoes or other insects, bugs, or animals.
- (b) Plastic bags may be used if not punctured and if securely sealed to prevent animals, rodents and insects from entering the refuse. Plastic bags may be exposed to the elements for no longer than 24 hours, except when storage is in accordance with section 2.115.040.
- (c) All dumpsters except those designated as temporary must be screened by a four-sided enclosure, three sides of which shall be composed of the same material and color of the main building, with a chainlink or wooden gate for access being the fourth side. The access gate must screen the dumpster and be of the same color as the main building. Screening inserts that are the color of the main building are required for chainlink access gates. Access gates must be closed at all times except when filling or emptying the dumpster. All nonconforming commercial dumpsters shall be brought into compliance with this provision within two years of the effective date of the ordinance from which this section is derived. The use of temporary dumpsters shall be prohibited on public property unless approved by the building official.

(Ord. No. 3.529, § 1(34.1000.820), 7-8-1996)

Sec. 2.115.040. Storage of refuse and containers.

All refuse and containers therefor shall be stored no closer to the public streets than the front building line of the main building of any lot; except between the hours of 12:00 noon of the day preceding scheduled pickup and 10:00 p.m. of the day of scheduled pickup, during which hours properly contained refuse may be temporarily placed near the public street for the purpose of pickup.

(Ord. No. 3.529, § 1(34.1000.830), 7-8-1996)

Sec. 2.115.050. Reserved.

Editor's note(s)—Ord. No. 4.394 Editor's note(s)—, § 1, adopted August 28, 2017, repealed § 2.115.050Editor's note(s)—, which pertained to burning refuse prohibited, exception, and derived from Ord. No. 3.529, § 1(34.1000.840), 7-8-1996.

Sec. 2.115.060. Collection of refuse generally.

No refuse shall be collected or hauled in the city unless done in such a manner as to prohibit the accidental escape therefrom of any material hauled therein. Persons hauling refuse for compensation shall comply with the provisions of this division and all other applicable federal, state, and/or local laws, rules or regulations.

(Ord. No. 3.529, § 1(34.1000.850), 7-8-1996)

Sec. 2.115.070. Rules and regulations.

- (a) *Generally.* The director shall make, amend, revoke and enforce reasonable and necessary rules and regulations, governing, but not limited to:
- (1) Preparation, drainage and wrapping of garbage deposited in solid waste containers;
 - (2) Specifications for solid waste containers, including the type, composition, equipment, size and shape thereof;
 - (3) Identification of solid waste containers and of the covers thereof, and of equipment thereto appertaining, if any;
 - (4) Weight limitations on the combined weight of solid waste containers and the contents thereof, and weight and size limitations on bundles of solid waste too large for solid waste containers;
 - (5) Storage of solid waste in solid waste containers;
 - (6) Sanitation, maintenance and replacement of solid waste containers;
 - (7) Schedules of and routes for collection and transportation of solid waste;
 - (8) Collection points of solid waste containers;
 - (9) Collection, transportation, processing and disposal of solid waste;
 - (10) Handling of special wastes such as toxic wastes, sludges, ashes, agriculture, construction, bulky items, tires, automobiles, oils, greases, etc.
- (b) *Billing and collection.* In the event the city chooses to bill customers for solid waste disposal, the director or the director's designee is authorized to make and promulgate reasonable and necessary rules and regulations for the billing and collection of solid waste collection and/or disposal service charges, as provided for in this chapter.
- (c) *Filing; notification to haulers upon change.* A copy of any and all rules and regulations made and promulgated under the provisions of this section shall be filed in the office of the city clerk of the city. All licensed haulers shall be notified of any change in the rules and regulations.

(Ord. No. 3.721, § 1(16-2), 8-23-1999)

Sec. 2.115.080. Service charges.

The service charge for collection of solid waste shall be in an amount agreed upon by the individual and the private contractor, and shall be reasonable and consistent with the type of service desired.

(Ord. No. 3.721, § 1(16-3), 8-23-1999)

Sec. 2.115.090. Prohibited practices.

It shall be unlawful for any person to:

- (1) Deposit solid waste in any solid waste container other than the person's own, without the written consent of the owner of such container and/or, with the intent of avoiding payment of the service charge provided for in this chapter for solid waste collection and disposal;
- (2) Interfere in any manner with solid waste collection and transportation equipment, or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the city, or those of a solid waste collection agency operating under contract with the city, or as permitted in subsection 2.115.230(3);
- (3) Dispose of solid waste at any facility or location which is not approved by the city and the state division of health;
- (4) Engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the city without a license from the city, or operate under an expired permit, or operate after a permit has been suspended or revoked.

(Ord. No. 3.721, § 1(16-4), 8-23-1999)

Sec. 2.115.100. Inspections authorized.

In order to ensure compliance with the laws of this state, the city Code, this chapter and the rules and regulations authorized in this chapter, the city is authorized to inspect all phases of solid waste, yard waste, and recycling management or services within the city. No inspection shall be made in any residential unit unless authorized by the occupant or by due process of law.

(Ord. No. 3.721, § 1(16-5), 8-23-1999)

Sec. 2.115.110. Complaints.

Solid waste collectors shall establish an office or facility in the metro area through which contact can be made. Such office shall be equipped with adequate telephone communications, shall have at least one responsible person in charge and present during collection hours, and shall be open during all collection hours. Solid waste collectors shall receive and respond to all complaints regarding services provided under this license. Any complaints received by the city will be directed to the solid waste collector's office. Should a complaint go unresolved for longer than three business days, the city will have the right to require that the solid waste collector provide the customer and the city with a written explanation or plan to resolve the dispute within seven business days.

(Ord. No. 3.721, § 1(16-6), 8-23-1999)

Division II. License

Sec. 2.115.120. Required.

No person shall engage in the business of collecting, transporting, processing or disposing of solid waste, recyclables or yard waste within the corporate limits of the city, without first obtaining an annual license therefor from the city; provided, however, that this section shall not be deemed to apply to employees of the holder of any

such license, nor shall any license be required for the removal, hauling or disposal of earth and rock materials from grading or excavation activities.

(Ord. No. 3.721, § 1(16-7), 8-23-1999)

Sec. 2.115.130. Application.

Each applicant for any such license required by this division shall state in its application therefor:

- (1) The nature of the license desired, as to collecting, transporting, processing or disposing of solid waste or any combination thereof;
- (2) The characteristics of solid waste to be collected, transported, processed or disposed;
- (3) The number of solid waste transportation vehicles to be operated thereunder including a description of vehicles as to physical characteristics, year of manufacture and name of manufacture;
- (4) The precise location of solid waste processing or disposal facilities to be used;
- (5) Boundaries of the collection area; and
- (6) Such other information as required by the city.

(Ord. No. 3.721, § 1(16-8), 8-23-1999)

Sec. 2.115.140. Issuance; term; fee; modifications.

If the application for a license as required by this chapter shows the applicant will collect, transport, process or dispose of solid wastes without hazard to the public health or damage to the environment and in conformity with the laws of the state and this chapter, the director shall issue the license authorized by this chapter. The license shall be issued for a period of one year, and each applicant shall pay a fee of \$100.00 annually.

(Ord. No. 3.721, § 1(16-9), 8-23-1999)

Sec. 2.115.150. Insurance required.

No license required by this division shall be issued unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the director evidence of a satisfactory general liability insurance policy covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, in the amount of not less than \$500,000.00 combined single limit to include bodily injury and property damage. Such policy must be approved by the city and may be written to allow no more than the first \$10,000.00 of liability for damage to property to be deductible. Should any such policy be canceled, the city shall be notified of such cancellation by the insurance carrier in writing not less than ten days prior to the effective date of such cancellation and provisions to that effect shall be incorporated in such policy which shall also place upon the company writing such policy the duty to give such notice.

(Ord. No. 3.721, § 1(16-10), 8-23-1999)

Sec. 2.115.160. Vehicle inspection required.

No license shall be issued until an inspection has been made of all equipment proposed to be used by the applicant to provide solid waste disposal services within the city. The ~~director or the director's~~ Chief of Police or their designee shall determine if the equipment is reasonably sanitary and safe for operation, if the equipment is

equipped with covered watertight sanitary trash bodies, if brooms and shovels are provided for all vehicles to sweep up spilled debris, and if the equipment is adequately identified. At the ~~director's~~ **Chief of Police's** discretion, the applicant may submit a record of a vehicle inspection performed within the previous 12 months and performed in accordance with the requirements of 49 CFR 396 in lieu of an inspection by the city. No license shall be issued unless the standards set by this division are met. An annual inspection, or more often at the discretion of the ~~director~~ **Chief of Police**, shall be made. Any vehicle found to be in violation of this section shall be immediately removed from service and shall not be utilized within the city until such vehicle meets the requirements of this section.

(Ord. No. 3.721, § 1(16-11), 8-23-1999)

Sec. 2.115.170. Transferability.

No license required by this division shall be transferable from person to person or business to business.

(Ord. No. 3.721, § 1(16-12), 8-23-1999)

Sec. 2.115.180. Denial; notice to applicant.

If the application does not clearly show that the collection, transportation, processing or disposal of solid wastes will create no public health hazard or be without harmful effects on the environment, the application shall be denied and the applicant notified by the city, in writing, stating the reason for such denial. Nothing in this section shall prejudice the right of the applicant to reapply after the rejection of such applicant's application provided that all aspects of the reapplication comply with the provisions of this division.

(Ord. No. 3.721, § 1(16-13), 8-23-1999)

Sec. 2.115.190. Violations; notice.

Any solid waste collector found in violation of the provisions of this division shall be given ten days written notice to comply with this division. Depositing such notice in the United States mail shall constitute service thereof. Such notice shall apprise the solid waste collector of the violations found.

(Ord. No. 3.721, § 1(16-14), 8-23-1999)

Sec. 2.115.200. Suspension and revocation.

In all cases of violation of this chapter, rules and regulations authorized by this chapter or the laws of the state, when the corrective measures have not been taken within the time specified in the written notice of violation, the city may suspend or revoke the license involved in the violation. However, in those cases where an extension of time will permit correction and there is not a public health hazard created by the delay, one extension of time not to exceed the original time period may be given.

(Ord. No. 3.721, § 1(16-15), 8-23-1999)

Sec. 2.115.210. Appeals.

Any person aggrieved by any notice of violation or order issued pursuant thereto of the city may, within ten days of the act for which redress is sought, appeal directly to the city manager in writing, setting forth in a concise statement the act being appealed and the grounds for its reversal.

(Ord. No. 3.721, § 1(16-16), 8-23-1999)

Sec. 2.115.220. Reporting required.

All persons engaged in the business of collecting, transporting, processing or disposing of solid waste, yard waste, or recyclables within the city shall submit to the city on a quarterly basis a report on the solid waste, yard waste, and recyclables collected within the city, on a form approved by the city containing the information required in this section. Reports shall be due no later than 30 days after the end of the quarter. Quarters shall end on March 31, June 30, September 30 and December 31 of each year. Such information shall include by type for solid waste, yard waste, and recyclables, the methods of disposal and location, amounts disposed of by volume and/or weight and customer participation rates.

(Ord. No. 3.721, § 1(16-17), 8-23-1999)

Division III. Collection

Sec. 2.115.230. Responsibility of city to provide.

The city shall provide for the collection of solid waste in one or more of the following ways as determined by the city council:

- (1) The city may provide the collection service by contracting with a person, county or other city or a combination thereof, for the entire city or portions thereof, as deemed to be in the best interests of the city.
- (2) The city may provide commercial solid waste collection services upon specific application of the owners or persons in charge thereof; however, if such application is not made or approved, it shall be the duty of such establishment to provide for collection of all solid waste produced upon any such premises in a manner approved by the city.
- (3) The city may permit residents to contract individually for such services subject to approval by the city collecting agency. The collecting agency must secure a business license as provided in division II of this article.
- (4) The city may contract with a person or provide the service itself for the collection of all residential solid waste in the city that is not collected under a contract pursuant to subsection (3) of this section.

(Ord. No. 3.721, § 1(16-18), 8-23-1999)

Sec. 2.115.240. Right of entry.

Solid waste collectors employed by the city or a solid waste collection agency operating under contract with the city or as permitted under subsection 2.115.230(3) are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter. Commercial solid waste may be removed from within commercial establishments.

(Ord. No. 3.721, § 1(16-19), 8-23-1999)

Sec. 2.115.250. Separate collection of yard wastes required to be offered.

All persons engaged in the business of collecting, transporting, processing or disposing of residential solid waste shall offer separate collection of yard waste to their customers located within the city.

(Ord. No. 3.721, § 1(16-20), 8-23-1999)

Sec. 2.115.260. Recycling required to be offered.

- (a) All persons engaged in the business of collecting, transporting, processing or disposing of residential solid waste within the city shall offer, to customers located within the city, recycling of the following items:
 - (1) Clear, green, and brown glass containers;
 - (2) Metal cans, including aluminum and tin cans and lids;
 - (3) Rigid plastic containers marked with the recycling code "1";
 - (4) Rigid plastic containers marked with the recycling code "2"; and
 - (5) Newsprint.
- (b) Nothing in this section shall be construed to prohibit offering recycling of items in addition to those listed in subsection (a) of this section.

(Ord. No. 3.721, § 1(16-21), 8-23-1999)

Sec. 2.115.270. Subcontract to provide recycling service and/or collection of yard waste.

Any residential licensed solid waste collector may subcontract with another solid waste collector to provide the recycling service and suitable containers and/or collecting and disposition of yard waste.

(Ord. No. 3.721, § 1(16-22), 8-23-1999)

Sec. 2.115.280. Exclusion of banned materials.

The owner or occupant of any premises where solid waste shall be generated shall separate banned materials from all other solid waste and shall be personally responsible for making separate provisions for disposal of these materials either through a city-licensed hauler or a state-approved processing facility.

(Ord. No. 3.721, § 1(16-23), 8-23-1999)

Sec. 2.115.290. Frequency of collection and disposal.

- (a) Subject to the minimum collection frequencies specified in subsection (b) of this section, refuse and debris shall be collected and disposed of as completely and as frequently as necessary to prevent the creation of a nuisance.
- (b) Residential collection of solid waste, other than bulky rubbish, recyclables and yard waste, shall not be less than one collection each calendar week. Collection of recyclables shall be not less than one collection every two weeks. Collection of yard waste shall be not less than one collection every week during the following months: April, May, June, July, August, September, October, November and December. All commercial solid waste shall be collected at least once weekly, and shall be collected at such lesser intervals as may be fixed

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by the city or requested by the commercial establishment upon a determination that such lesser intervals are necessary for the preservation of the health and/or safety of the public.

(Code 1974, § 16-24; Ord. No. 3.529, § 1(34.1000.870), 7-8-1996; Ord. No. 3.721, § 1(16-24), 8-23-1999)

Sec. 2.115.300. Time for pickups.

Solid waste shall only be collected between the hours of 7:00 a.m. and 9:00 p.m. local time.

(Ord. No. 3.721, § 1(16-25), 8-23-1999)

Sec. 2.115.310. Responsibility of waste from point of collection to transportation vehicle.

Solid waste collectors shall be responsible for the collection of solid waste from the point of collection to the transportation vehicle. Any spillage or blowing litter caused as a result of the duties of the solid waste collector shall be collected and placed in the transportation vehicle by the solid waste collector.

(Ord. No. 3.721, § 1(16-26), 8-23-1999)

Sec. 2.115.320. Bulky rubbish.

All persons engaged in the business of collecting, transporting, processing or disposing of residential solid waste shall make available bulky waste disposal service. Charges for this type of service may be negotiated separately from other required waste collection services. Collection firms must document lawful disposal of all banned materials collected as bulky rubbish.

(Ord. No. 3.721, § 1(16-27), 8-23-1999)

Sec. 2.115.330. Collected solid waste property of collection agency.

All solid waste collected shall, upon being loaded into transportation equipment, become the property of the collection agency.

(Ord. No. 3.721, § 1(16-28), 8-23-1999)

Sec. 2.115.340. Scavenging prohibited.

- (a) It shall be unlawful for any person not licensed by the city and not under contract with the owner or occupant of the premises to knowingly remove any recyclable placed for collection by a solid waste collector.
- (b) It shall be unlawful for any person not licensed by the city and not authorized by, or under contract with, the owner or occupant of the premises to knowingly search through, remove or disturb any solid waste placed at the curbside, or in an appropriate container, for collection. This section shall not restrict the authority of law enforcement officials to conduct a search of solid waste.

(Code 1974, § 16-29; Ord. No. 3.529, § 1(34.1000.860), 7-8-1996; Ord. No. 3.721, § 1(16-29), 8-23-1999)

Division IV. Transportation²⁹

- CODE OF ORDINANCES
Title II - PUBLIC HEALTH, SAFETY AND WELFARE
CHAPTER 115. - SOLID WASTE AND LITTER
ARTICLE 1. - IN GENERAL
Division IV. Transportation

²⁹Cross reference(s)—Traffic code, title IV.

Sec. 2.115.350. Construction and maintenance of vehicles.

All vehicles used for transporting solid waste shall be maintained in a safe, clean and sanitary condition, and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for transportation of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover or suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste or, as an alternate, the entire bodies thereof shall be enclosed, with only loading hoppers exposed. No solid waste shall be transported in the loading hoppers. The waste hauler's name and phone number shall be displayed on both sides of the vehicle in large lettering visible from a distance of 50 feet.

(Ord. No. 3.721, § 1(16-30), 8-23-1999)

Sec. 2.115.360. Materials from grading or excavations.

A license shall not be required for the removal, hauling or disposal of earth and rock materials from grading and excavation activities; however, all such materials shall be transported 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.

(Ord. No. 3.721, § 1(16-31), 8-23-1999)

Sec. 2.115.370. Demolition and construction wastes.

Transportation and disposal of demolition and construction wastes shall be in accordance with divisions II and V of this article.

(Ord. No. 3.721, § 1(16-32), 8-23-1999)

Sec. 2.115.380. Yard wastes.

The solid waste collector shall segregate yard wastes from all other solid waste at the point of collection and during transportation within the limits of the city.

(Ord. No. 3.721, § 1(16-33), 8-23-1999)

Division V. Disposal

Sec. 2.115.390. Generally.

Solid wastes shall be deposited at a processing facility or disposal complying with all requirements of the state department of natural resources and/or any other entity having jurisdiction over such facilities or disposal area.

(Ord. No. 3.721, § 1(16-34), 8-23-1999)

Sec. 2.115.400. Disposal of hazardous, contagious disease, inflammable or explosive refuse.

- (a) Certain wastes, classified as hazardous wastes, shall require special handling and shall be disposed of only in a manner which will meet all local, state and federal regulations.
- (b) Removal of clothing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases prevail shall be performed under the supervision and direction of the county health officer. Such refuse shall not be placed in containers used for regular collections or disposal.
- (c) Highly inflammable or explosive materials shall not be placed in containers for collection but shall be disposed of as directed by the ~~director of public safety~~Fire Chief at the expense of the owner or possessor thereof.

(Code 1974, § 16-35; Ord. No. 3.529, § 1(34.1000.810), 7-8-1996; Ord. No. 3.721, § 1(16-35), 8-23-1999)

Sec. 2.115.410. Recyclables and yard waste.

All recyclables and yard wastes shall be deposited at a processing facility or disposal area which meets all local, state and federal regulations.

(Ord. No. 3.721, § 1(16-36), 8-23-1999)

Sec. 2.115.420. Disposition of banned materials.

If banned materials are collected, the solid waste collector must make provisions for lawful disposition of such banned materials and provide documentation of such lawful disposition.

(Ord. No. 3.721, § 1(16-37), 8-23-1999)

ARTICLE 2. RECYCLING AND SOLID WASTE MANAGEMENT COMMITTEE³⁰

³⁰Cross reference(s)—Boards, commissions and committees, § 1.110.010Cross reference(s)— et seq.

Sec. 2.115.430. Established.

There is hereby established a recycling and solid waste management committee, which committee shall be selected, serve and have the responsibilities as set forth in this article.

(Ord. No. 3.142, § 1, 12-14-1992)

Sec. 2.115.440. Appointment of members; term.

- (a) The recycling and solid waste management committee shall consist of nine citizen members. The members of the recycling and solid waste management committee shall be broadly representative of the interests of the community to the extent reasonably practicable and selected from residents of the city. The members of the recycling and solid waste management committee shall be appointed by the mayor with the consent of the city council.
- (b) Citizen members of the recycling and solid waste management committee shall be appointed to three-year terms; except, that the terms of the first committee shall be such that three members shall be appointed for a term of one year; three members shall be appointed for a term of two years; and three members shall be appointed for terms of three years.
- (c) All terms of members of the recycling and solid waste management committee shall commence on January 1 of each calendar years and members shall serve until a successor is appointed and duly qualified.

(Ord. No. 3.142, § 2, 12-14-1992)

Sec. 2.115.450. Appointment and term of chair.

The mayor shall designate one of the members of the recycling and solid waste management committee as its chair. The chair of the recycling and solid waste management committee shall also be appointed for a term of one year and shall serve until a successor is appointed and duly qualified. The chair shall preside at all meetings of the recycling and solid waste management committee.

(Ord. No. 3.142, § 3, 12-14-1992)

Sec. 2.115.460. Frequency of meetings; open to public.

- (a) The recycling and solid waste management committee shall meet quarterly. The recycling and solid waste management committee may meet in special meetings at such additional times as may be set by the chair.
- (b) All meetings of the recycling and solid waste management committee shall be open to the public unless otherwise specified by law.

(Ord. No. 3.142, § 4, 12-14-1992)

Sec. 2.115.470. Powers and duties.

The recycling and solid waste management committee shall have the authority and responsibility to investigate and make recommendations to the city council as to the city's compliance with state and federal requirements relating to recycling and solid waste management. The recycling and solid waste management committee shall also propose ordinances needed to bring the city within compliance of state and federal laws. The recycling and solid waste management committee shall further investigate and make recommendations to the city

council regarding all issues concerning recycling and solid waste management as they relate to the city so as to promote the health, comfort, and general welfare of the city and to preserve and protect property values throughout the city.

(Ord. No. 3.142, § 5, 12-14-1992)

Sec. 2.115.480. Promulgation of rules and procedures.

The recycling and solid waste management committee hereby established is empowered to promulgate rules and procedures, consistent with this article, to be followed by it for the conduct of its meeting and to carry out the duties and responsibilities hereby granted to it. Before any rules and procedures of the recycling and solid waste management committee shall become effective, they shall first be approved by resolution of the city council.

(Ord. No. 3.142, § 6, 12-14-1992)

CHAPTER 120. NOISE

Sec. 2.120.010. Purpose.

This chapter is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the city through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

(Ord. No. 3.856, § 2(1), 2-24-2003)

Sec. 2.120.020. Scope.

This chapter applies to the control of all sounds originating within the jurisdictional limits of the city. (Ord. No. 3.856, § 2(2), 2-24-2003)

Sec. 2.120.030. 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:

City manager means the city manager or the city manager's designee.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

Emergency work means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

Noise sensitive area includes, but is not limited to, a posted area where a school, hospital, nursing home, church, court, public library, or similar institution is located.

Person means any individual, firm, association, partnership, joint venture, or corporation.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

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Public space means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

Residential area means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the city zoning ordinance (title VII).

(Ord. No. 3.856, § 2(3), 2-24-2003)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 2.120.040. General prohibition.

- (a) No person shall make, continue, or cause to be made or continued:
 - (1) Any unreasonably loud or raucous noise;
 - (2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the city; or
 - (3) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which such noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.
- (b) Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:
 - (1) The proximity of the sound to sleeping facilities, whether residential or commercial;
 - (2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
 - (3) The time of day or night the sound occurs;
 - (4) The duration of the sound; and
 - (5) Whether the sound is recurrent, intermittent, or constant.

(Ord. No. 3.856, § 2(4), 2-24-2003)

Sec. 2.120.050. Noises prohibited.

The following acts are declared to be inherently violations of this chapter. This enumeration does not constitute an exclusive list.

- (1) *Unreasonable noises.* The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonable loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.

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- (2) *Operation and repair of automobiles, motorcycles, boats, and other motorized vehicles.* No person shall operate an automobile, motorcycle, boat, or other motorized vehicle within a residential area unless it is equipped with a muffler in good working order and sufficient to prevent excessive, unusual, or annoying noise. Repair of automobiles, motorcycles, boats and other motorized vehicles in residential areas that create the level of noise prohibited in section 2.120.040, either from such motorized vehicle or the tools used in the repair process, is prohibited between the hours of 10:00 p.m. and 7:00 a.m.
- (3) *Vehicle horns, signaling devices, and similar devices.* The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the city, for more than 20 consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.
- (4) *Nonemergency signaling devices.* Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for nonemergency purposes, from any place for more than 20 consecutive seconds in any one-hour period. The reasonable sounding of such devices by houses of religious worship, by ice cream trucks, or by the city is exempt from the operation of this provision.
- (5) *Emergency signaling devices.* The intentional sounding or permitting the sounding outdoors of any emergency signaling device including a fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections a. and b. below.
- a. Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.
- b. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm shall terminate within five minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this chapter.
- (6) *Radios, televisions, boomboxes, phonographs, stereos, musical instruments, and similar devices.*
- a. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player or operator of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passersby, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area, or public space.
- b. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player or operator of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multifamily or single-family dwellings.
- (7) *Loudspeakers, amplifiers, public address systems, and similar devices.* The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays, in the following areas:
- a. Within or adjacent to residential or noise-sensitive areas.

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- b. Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous, except for any public performance, gathering, or parade for which a permit has been obtained from the city.
- (8) *Yelling, shouting, and similar activities.* Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.
- (9) *Animals and birds.* Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, kennels, veterinary hospitals, pet shops or pet kennels, licensed under and in compliance with licensing and permitting provisions of the city, are exempt from this subsection.
- (10) *Loading or unloading merchandise, materials, or equipment; trash collection; operation of powered outdoor sweeping equipment.* The loading or unloading of merchandise, materials or equipment, trash collection, and the operation of powered outdoor sweeping equipment between the hours of 10:00 p.m. and 7:00 a.m., or at any time or so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.
- (11) *Construction or repair of buildings; excavation of streets and highways.* The construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between the hours of 7:00 a.m. and 7:00 p.m., on weekdays. In cases of emergency, construction or repair noises are exempt from this provision. In nonemergency situations, the city building official or public works director may permit work to be performed after 7:00 p.m. and before 7:00 a.m., upon written request, if such work is deemed reasonably necessary to the progress of the construction project and not unduly disruptive of the peace and quiet of the public.
- (12) *Noise sensitive areas (schools, courts, churches, hospitals, and similar institutions).* The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the persons in these institutions; provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.
- (13) *Blowers and similar devices.* In residential or noise sensitive areas, between the hours of 10:00 p.m. and 7:00 a.m., the operation of any noise creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.
- (14) *Commercial establishments adjacent to residential property.* Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m., which is plainly audible at a distance of ten feet from any residential property.

(Ord. No. 3.856, § 2(5), 2-24-2003)

Sec. 2.120.060. Exemptions.

Sounds caused by the following are exempt from the prohibitions set out in section 2.120.050 and are in addition to the exemptions specifically set forth in section 2.120.050:

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- (1) Motor vehicles on trafficways of the city, provided that the prohibitions of section 2.120.050(2) and (3) continue to apply.
 - (2) Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property.
 - (3) Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibitions contained in section 2.120.050(5) continue to apply.
 - (4) The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.
 - (5) Repairs or excavations of bridges, streets or highways by or on behalf of the city, the state, or the federal government, between the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 7:00 p.m.
 - (6) Outdoor school and playground activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.
 - (7) Other outdoor events. Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.

(Ord. No. 3.856, § 2(6), 2-24-2003)

Sec. 2.120.070. Enforcement.

- (a) The ~~director of public safety~~Chief of Police will have primary responsibility for the enforcement of the noise regulations contained in this chapter. Nothing in this chapter shall prevent the ~~director of public safety~~Chief of Police or officers under the ~~Chief~~director's supervision from obtaining voluntary compliance by way of warning, notice or education.
- (b) If a person's conduct would otherwise violate this chapter and consists of speech or communication; of a gathering with others to hear or observe speech or communication; or of a gathering with others to picket or otherwise express in a nonviolent manner a position on social, economic, political or religious questions; the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

(Ord. No. 3.856, § 2(7), 2-24-2003)

Sec. 2.120.080. Penalties.

- (a) A person who violates a provision of this chapter is guilty of a misdemeanor which is punishable by a fine not to exceed \$500.00 or imprisonment not to exceed 90 days or both.
- (b) Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

(Ord. No. 3.856, § 2(8), 2-24-2003)

CHAPTER 125. RESERVED³¹

- CODE OF ORDINANCES
Title II - PUBLIC HEALTH, SAFETY AND WELFARE
CHAPTER 125. RESERVED

³¹Editor's note(s)—Ord. No. 4.030, § 1, adopted May 14, 2007, repealed ch. 125 which pertained to outdoor special events and derived from Ord. No. 3.442, §§ 1—9, adopted March 27, 1995.

Secs. 2.125.010—2.125.090. Reserved.

CHAPTER 130. PARKS AND RECREATION³²

³²Cross reference(s)—Parks and recreation advisory board, § 1.110.020Cross reference(s)— et seq.; streets and sidewalks, § 8.120.010Cross reference(s)— et seq.

Sec. 2.130.010. Park rules and regulations.

The following rules and regulations governing conduct in public parks and recreation areas in the city are hereby adopted by the city council:

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

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

Athletic field means designated areas for organized athletic league play such as softball diamonds, football fields, and soccer fields.

Athletic shoe means a smooth soled, no heeled, sport shoe.

Director of parks and recreation means the individual appointed from time to time by the city manager to carry out the provisions of this chapter, or the city manager's designee.

Domestic animals means animals which are habituated to live in or about the habitations of people or such as to contribute to the support of a family or the wealth of the community.

Litter means to throw or place, or cause to be thrown or placed, any glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, refuse or rubbish of any kind, nature or description in the parks or recreation areas.

Motorized vehicle means any self-propelled vehicle, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

Permit means any written license issued by the city department of parks and recreation permitting a special event or activity on or in a park or building facility.

Special event means an event which in effect removes public property from public use for a period of time, excluding athletic fields, shelterhouses and special events sponsored by the city.

Trail means any walking trail, exercise path, or path maintained for pedestrians within a city park or recreation area.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn.

- (2) *Hours.* Except as provided herein, Oak Grove Park, Happy Rock Park, and Central Park shall be open to the public from 6:00 a.m. to 10:00 p.m. daily. Neighborhood parks such as Hamilton Heights Park, Flora Park, Hidden Hollow Park, Hobby Hill Park, Little Gully Park, Maple Woods Preserve, Meadowbrook Park, and Sycamore Park shall be closed to the public from dusk to until dawn each night. Linden Square Park shall be open to the public from 6:00 a.m. to 11:00 p.m. daily. For programs or events sponsored or approved by the city such hours of operation may be increased or decreased for a period of time not exceed sixty minutes prior to or following the conclusion of such program or event. The tennis courts at 72nd Street and North Euclid and the tennis courts at Happy Rock Park shall be open from 6:00 a.m. to 11:00 p.m. It shall be unlawful to enter or remain in a public park during any time when the park is closed to the public.
- (3) *Vehicular use.* It shall be unlawful for any person in a public park or recreation area to:
- Drive any vehicle on an area except the paved park roads or parking areas, or such areas as may on occasion be specifically designated as temporary areas.
 - Park a vehicle anywhere except in a designated area.

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- c. Leave a vehicle standing or parked in established parking areas or elsewhere in the park and recreation areas during hours when the park and recreation area is closed with the exception of vehicles parked in connection with a program or event sponsored by the city.
 - d. Ride a bicycle without reasonable regard to the safety to others.
 - e. Use the parks, park drives, parking places or parkways for the purpose of demonstrating any vehicles, or for the purpose of instructing another to drive or operate any vehicle nor shall any person use any park area, including parking places, for the repairing or cleaning of any vehicle, except in an emergency.
 - f. Cause or permit a vehicle in tow of another vehicle to enter the parks or proceed therein, except that in case of a breakdown a disabled vehicle may be towed to the nearest exit; or operate or drive a vehicle containing any person or object projecting or hanging outside of or beyond the side or the rear thereof.
 - g. Operate, ride, push, carry or park skateboards and motorized vehicles on the trails.
 - h. Operate, ride, push, carry or park bicycles, skateboards or motorized vehicles inside the Happy Rock Softball Complex.
 - i. Operate, ride, push, carry or park bicycles on the trails in Happy Rock Park.
- (4) *Park closings.* Any city park or portion of any city park may be closed to the public entirely or closed for certain uses for a period of time as determined by the director of parks and recreation, simply by the posting of signs to that effect or by other means which make it obvious that any city park or portion thereof is closed to the public entirely or closed for certain uses. During the periods of time when any city park is closed, no person shall enter or occupy any such park or portion of such park contrary to the posted regulations.
- (5) *Sales and concessions.* Sales or advertisement of merchandise or other goods for sale or hire, in any city park or recreation facilities, is prohibited, except by written permission of the director of parks and recreation and upon obtaining a license or contract as a concessionaire as otherwise provided in this chapter; however, no permit shall be required for a city-sponsored event.
- a. *Display of written permits.* Written permits issued by the city pursuant to this section for the sale or advertisement of merchandise or other goods for sale or hire in any city park or facilities must be conspicuously displayed at all times.
 - b. *Temporary concessions.* Temporary concessions may be given for special events to any person, firm or corporation, or to any civic group upon such terms and conditions as set forth by the director of parks and recreation from time to time.
 - c. *Concessionaire contract.* In the event concessions at Happy Rock Park, the municipal pool or Oak Grove Park Amphitheatre are provided by any party other than the city, the city shall enter into a contract and issue a license for the provision of such concessions.
- (6) *Damage to city property.* No person shall deface, damage, injure or destroy any city building, bridge, fence or other city enclosure, gate, gate post, grounds, lamp, lamppost, fireplug, hydrant, railing, sign, tree, tree box or any other city property or property not belonging to that person by breaking, cutting, hacking, pulling down, tearing, marking, daubing with paint, or other substance, or in any other way or manner defacing, damaging, injuring or destroying such property. It shall be unlawful for any person to climb any tree or walk; climb, stand or sit upon monuments, vases, planters, fountains, railings, fences or upon any other property not designated or customarily used for such purpose. No person shall practice golf techniques such as driving chipping or putting on city park property.

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- (7) *Wildlife.* No person shall pursue, catch, kill, molest, or take in any manner or any quantity any wildlife on parkland except as otherwise permitted by this chapter, or by the express permission of the director of parks and recreation when necessary to control animal damage.
- a. *Domestic animals.* While in city parks, domestic animals shall be effectively leashed at all times by a handheld leash by a responsible person physically capable of controlling such animal. Domestic animals shall not be left unattended. Domestic animals shall not be allowed in the Happy Rock Softball complex with the exception of guide, hearing or service dogs for the visually, aurally or physically disabled. Further, the owner or person having custody of such domestic animal shall be responsible for removal of any animal solid waste or feces.
- b. *Horseback riding.* No person shall engage in horseback riding in city parks.
- c. *Trapping.* No person shall set or possess any steel, plastic or wooden trap for catching, pursuing or killing wildlife in any city park.
- (8) *Plants and other natural materials.* All trees, plants, vegetation, soil, rock, sand, stones, wood or other natural materials on city park land are protected. No person shall collect, destroy, damage, cut, carve, mark, transplant, remove, dig in or otherwise disturb any tree, plant, grass, flowers, other vegetation, soil, rock, sand, stones, wood or other natural materials from park lands or in any other way injure the natural beauty or usefulness of any area except by permission of the director of parks and recreation. Dead fallen wood (no standing timber) may be collected for use as firewood at park picnic areas with approval of the director of parks and recreation. No person shall collect standing timber for use as firewood.
- (9) *Fires.* No person shall ignite or maintain any fire on parkland except in designated grills or other fireplaces provided for that purpose by the city. No person shall leave a fire unattended, and all fires must be extinguished after use.
- a. *Fire danger.* The director of parks and recreation may prohibit all fires on all city parkland by the posting of signs to that effect during designated periods of drought.
- b. *Ignitable and combustible materials.* No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material within or against any building, vehicle, or under any tree or in underbrush.
- (10) *Fireworks.* The use or possession of fireworks of any kind on city parkland is permitted only when authorized in writing by the director of parks and recreation for special events.
- (11) *Littering.* It shall be unlawful for a person to litter on city park property. Only litter or trash generated from recreational activities in city parks shall be disposed of in appropriate containers provided by the department of parks and recreation.
- (12) *Disorderly conduct.*
- a. *Generally.* No person shall engage in disorderly conduct or any conduct tending toward a breach of the peace or engage in any violent, tumultuous, offensive and disorderly conduct by threatening, traducing, quarrelling, challenging to fight or fighting, or by using obscene, offensive, profane or unseemly language to the annoyance, disturbance or vexation of another.
- b. *When noises constitute disorderly conduct.* The causing or making of any unnecessary loud noise by the use of amplified speakers or sound systems shall be considered disorderly conduct (excepted herefrom is the use of city sound equipment utilized at the amphitheatre, athletic fields and city-sponsored special events).
- (13) *Alcoholic beverages.*

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- a. *Possession and consumption generally.* The possession or consumption of alcoholic beverages is prohibited on city parks, except when authorized by resolution of the city council for community events.
 - b. *Intoxication.* Any person in a state of intoxication or under the influence of a controlled dangerous substance on any city park property or city recreation area may be removed from park property or the recreation area.
- (14) *Glass beverage containers.* The possession of glass beverage containers on city park property is prohibited.
- (15) *Reservations.* Any group may reserve any park shelter or athletic field for a specific time and date in accordance with the terms of this section:
- a. *Shelterhouses and athletic fields.* Shelterhouses and athletic fields may be reserved by obtaining a permit from the department of parks and recreation. Reservations may only be made by a person 21 years of age or older. The person making the reservation shall be held accountable for the condition of the shelterhouse or athletic field at the end of such person's use. The person reserving the shelterhouse or athletic field shall also be responsible for the actions of those in such person's party. Use of a shelterhouse or athletic field by anyone other than the party in whom the reservation is made and to whom the permit is issued is prohibited.
 - b. *Procedure.* The director of parks and recreation or any employee designated by the director of parks and recreation shall record all reservations and record all payments and deposits. Reservations shall be made by the department of parks and recreation on a first come first served basis upon payment of the fee required by the schedule of fees and charges as amended by the city council from time to time. Reservations for shelter permits shall not commence until after January 1 for the current calendar year. Reservations for the community building shall not commence until after July 1 for the following calendar year.
 - c. *Other use allowed.* Nothing in this section shall prohibit any organized or informal group from using park facilities not otherwise closed to the public without a reservation. Such use shall not interfere with use of facilities by a group having a reservation.
- (15) *Tennis courts.* Tennis courts shall not be reserved with the exception of reservations in connection with a program or event sponsored by the city. It shall be unlawful for any person using a tennis court located on city park property to wear nonathletic footwear on the tennis court surface, use a metal tennis racket on the tennis court without a court guard protector, operate or ride a bicycle, roller skates, rollerblades or skateboard on a tennis court, or conduct private tennis lessons for financial gain on any such tennis court
- (16) *Solicitation.* No person shall solicit alms or contributions for any purpose, whether public or private on city park property, unless the solicitation is in connection with a city-sponsored event and approved by the city.
- (17) *Gambling.* It shall be unlawful for any person in a park or recreation area to play, engage or take part in any game or competitive sport for money, or other valuable thing, without a written permit.
- (18) *Firearms and other weapons.* No person other than police officers or others authorized by law shall use, carry or possess any long bow, cross bow or slingshot, pistol, revolver, rifle, shotgun, air gun, spring gun, BB gun or any other weapon in which the force used to propel projectiles is gun powder, air, compressed air or springs, or any instrument that can be loaded with and fire blank cartridges, on any city park system property except as otherwise permitted by this chapter. Further, no person shall discharge a firearm or other weapon into park areas from beyond the park boundaries.

(19) *Issuance of permit required.* No person shall do any of the following without a permit, provided that no permit shall be required for any action or event sponsored by the city:

- a. Display an advertising sign or other advertising matter, provided that a sign attached to a vehicle to identify the vehicle, or a sign lawfully on a taxi or bus, is not prohibited;
- b. Operate for advertising purposes any musical instrument, soundtrack or drum;
- c. Conduct exhibitions;
- d. Hold a parade;
- e. Conduct concerts.

(20) *Cooperative use of city park facilities with schools.* The city will make city park facilities, including the Oak Grove Park Amphitheatre, available for the use of school classes and other school activities for any public or private school within the boundaries of the North Kansas City School District. Such activities may be scheduled during hours that school is in session or after school. The school shall give at least 30 days notice to the department of parks and recreation of its need to utilize any park area for such school purposes and a permit shall be issued for such school use in the event the park scheduling permits.

(Ord. No. 3.396, § 2, 7-11-1994; Ord. No. 3.917, § 1, 5-24-2004; Ord. No. 4.220, § 1, 11-12-2012)

Sec. 2.130.020. Authority to enact additional rules.

The director of parks and recreation has the authority to enact any rules not inconsistent with the rules provided by this chapter controlling the general conduct of park patrons which are necessary to ensure the well-being of all park users. Such rules established by the director of parks and recreation shall be posted at any such facility to which the rule applies and may be enforced by the department of parks and recreation and the ~~department of public safety~~police department as if completely set forth in this chapter.

(Ord. No. 3.396, § 3, 7-11-1994)

Sec. 2.130.040. Review by city manager.

All decisions of the director of parks and recreation made hereunder are subject to review by the city manager. Any person aggrieved by a decision of the director of parks and recreation may appeal such decision in writing to the city manager for final review. The decision of the city manager in such instance is final with the exception of provisions hereof which specifically requires city council action.

(Ord. No. 3.396, § 4, 7-11-1994)

Sec. 2.130.050. Enforcement.

The ~~department of public safety~~police department and the department of parks and recreation staff shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter. The ~~department of public safety~~police department and the department of parks and recreation staff shall have the authority to order any person or persons acting in violation of this chapter to leave the park or recreation area.

(Ord. No. 3.396, § 5, 7-11-1994)

CHAPTER 135. SMOKING PROHIBITED IN PUBLIC PLACES

Sec. 2.135.010. Purpose.

It is the purpose of this chapter to promote the health, safety and welfare of the citizens of the City of Gladstone by decreasing exposure to secondhand smoke; and to create smoke free environments for workers, patrons and visitors to places of employment and all other public places within the city.

(Ord. No. 4.095, § 2, 2-23-2009)

Sec. 2.135.020. 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:

Bar means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.

City means the City of Gladstone, Missouri.

City counselor means the city counselor for the City of Gladstone, Missouri, or his or her designee.

Electronic cigarette, also known as "e-cigs", means a device consisting of a cartridge with liquid solution containing nicotine and a battery powering a coil which heats the liquid solution into vapor.

Employee means any person who performs services for an employer, with or without compensation.

Employer means a person, partnership, association, corporation, trust, or other organized group of individuals, including the city or any agency thereof, which utilizes the services of one or more employees.

Enclosed means a space bound by walls (with or without windows) continuous from the floor to the ceiling and enclosed by doors, including, but not limited to, offices, rooms, all space therein screened by partitions, which do not extend to the ceiling or are not solid, "office landscaping" or similar structures and hallways.

Permanently designated shall refer to a hotel or motel room that may be designated as a smoking room, with such designation being changeable only one time a year.

Place of employment means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a childcare, adult day care or health care facility.

Public place means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, laundering facilities, public transportation facilities, reception areas, production and marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms. A private residence is not a "public place."

Restaurant means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which provides food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include an attached bar.

Service line means any indoor or outdoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

Smoking means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other tobacco product.

Sports arena means sports pavilions, gymnasiums, health spas, boxing arenas, outdoor and indoor swimming pools, roller and ice skating rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

(Ord. No. 4.095, § 2, 2-23-2009; Ord. No. 4.262, 3-10-2014)

Sec. 2.135.030. Prohibition of smoking in enclosed places of employment and all enclosed public places.

- (1) The possession of lighted smoking materials in any form, including but not limited to, the possession of lighted cigarettes, cigars, pipes or other tobacco products, shall be prohibited in all enclosed places of employment within the City.
- (2) The possession of lighted smoking materials in any form, including but not limited to, the possession of lighted cigarettes, cigars, pipes or other tobacco products, shall be prohibited in all enclosed public places within the city, including, but not limited to, the following places:
 - a. Any vehicle of public transportation, including but not limited to buses, limousines for hire and taxicabs;
 - b. Elevators;
 - c. Restrooms;
 - d. Libraries, educational facilities, childcare and adult day care facilities, museums, auditoriums, aquariums and art galleries;
 - e. Any health care facility, health clinic or ambulatory care facilities, including, but not limited to, laboratories associated with the rendition of health care treatment, hospitals, nursing homes, doctors' offices and dentists' offices;
 - f. Any indoor place of entertainment or recreation, including but not limited to gymnasiums, theaters, concert halls, bingo halls, arenas and swimming pools;
 - g. Service lines;
 - h. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance;
 - i. Shopping malls;
 - j. Sports arenas, including enclosed places in outdoor arenas;
 - k. Bars or taverns;
 - l. Restaurants seating more than 50 persons;
 - m. Convention facilities;
 - n. All public areas and waiting rooms of public transportation facilities, including, but not limited to, bus and mass transportation facilities;
 - o. Any other area used by the public or serving as a place of work;
 - p. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including, but not limited to joint committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;

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- q. All enclosed facilities owned by the city; and
 - r. Rooms in which meetings or hearings open to the public are held, except where such rooms are in a private residence.
- (3) No one shall possess lighted smoking materials in any form, including, but not limited to, lighted cigarettes, cigars, pipes or other tobacco products within 25 feet of the entrance to or exit from a building where smoking is prohibited pursuant to this chapter, nor within 25 feet of a window, crack, vent, or other opening in the wall of such building that would allow cigarette smoke to enter the building.
 - (4) No person shall dispose of smoking waste or place or maintain a receptacle for smoking waste in an area in which smoking is prohibited under this chapter.
- (Ord. No. 4.095, § 2, 2-23-2009)

Sec. 2.135.040. Prohibition of smoking on or within all public park grounds.

- (1) Possession of lighted smoking materials in any form, including, but not limited to, the possession of lighted cigarettes, cigars, pipes or other tobacco products, is prohibited on or within the grounds of all public parks within the city.
 - (2) The city council may authorize smoking during special events, upon application by the event sponsor, and with the submission of a specific plan for location and operation of designated smoking areas where smoking may be allowed. The sponsor's plan shall include the designation of smoking areas acceptable to the director of parks and recreation, the provision by the sponsor of containers within the designation smoking areas for disposal of smoking refuse and paraphernalia, and the assurance by the sponsor that the sponsor will remove all smoking containers and smoking refuse and paraphernalia from the designated smoking areas at the conclusion of the special event.
- (Ord. No. 4.095, § 2, 2-23-2009)

Sec. 2.135.050. Responsibilities of proprietors, owners and managers.

- (1) A person having control of a place listed in section 2.135.030 shall not knowingly permit, cause, suffer or allow any person to violate the provisions of this chapter in that place. It shall be an affirmative defense to an alleged violation of this subsection that the person having control of a place has asked that the lighted cigarette, cigar, pipe or other tobacco product be extinguished and asked the person to leave the establishment if that person has failed or refused to extinguish the lighted cigarette, cigar, pipe or other tobacco products.
- (2) A person having control of a place shall clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) near all entrances where smoking is prohibited by this chapter. Such signage shall consist of letters not less than one inch in height.
- (3) It shall be the responsibility of employers to provide smoke-free workplaces for all employees.
- (4) Each employer having any enclosed place of employment located within the city shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

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- (5) The smoking policy shall be communicated to all employees within six weeks of the adoption of this chapter.
 - (6) All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

(Ord. No. 4.095, § 2, 2-23-2009)

Sec. 2.135.060. Exceptions to smoking restrictions.

Notwithstanding any other provision of this chapter to the contrary, the following shall not be subject to the smoking restrictions of this chapter.

- (1) Private residences, not serving as enclosed places of employment or enclosed public places;
- (2) An entire room or hall which is used for private social functions, provided that the seating arrangement is under the control of the sponsor of the function and not of the proprietor or other person in charge;
- (3) Performers on stage in a theatrical production, where smoking is required as part of the production;
- (4) Private rooms in nursing homes and long-term care facilities the residents of which are smokers and have requested the management of the facility to be placed in a room where smoking is permitted;
- (5) Retail establishments where more than 80 percent of the volume of trade or business carried on is the sale of tobacco and tobacco related products;
- (6) Hotels and motels may permanently designate ten percent of guest rooms as smoking rooms. A hotel or motel may only change the specific rooms that are designated as smoking rooms once during any 12-month period.

(Ord. No. 4.095, § 2, 2-23-2009; Ord. No. 4.357, § 1, 6-13-2016)

Sec. 2.135.070. Businesses existing when smoking restrictions enacted.

- (1) Businesses existing as of the date of enactment of this chapter shall be required to fully comply with the provisions of this chapter within 90 days after its enactment.
- (2) Businesses existing as of January 1, 2009 that hold current liquor licenses issued by the city and that have customarily allowed smoking on the premises prior to the date when this chapter is enacted, shall be exempt from the restrictions on smoking imposed by this chapter for a period of 36 months after the date of enactment. Signs shall be conspicuously posted that state "Smoking Allowed on Premises" near each entrance.

(Ord. No. 4.095, § 2, 2-23-2009)

Sec. 2.135.080. Penalty for violation of this chapter.

- (1) A person who smokes in an area where smoking is prohibited by the provisions of this chapter shall be guilty of an ordinance violation, punishable by a fine not exceeding \$50.00.
- (2) A person having control of a public place or place of employment and who fails to comply with the provisions of this chapter shall be guilty of an ordinance violation, punishable by:
 - a. A fine not exceeding \$100.00 for a first violation.
 - b. A fine not exceeding \$200.00 for a second violation within a one-year period.

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- c. A fine not exceeding \$500.00 for a third or subsequent violation within a one-year period.
 - d. Each day on which a violation of this chapter occurs shall be a separate and distinct violation.

(Ord. No. 4.095, § 2, 2-23-2009)

Sec. 2.135.090. City manager's authority.

The city manager is hereby authorized and directed to enforce the provisions of this chapter in and upon all grounds and structures owned or operated by the City of Gladstone, and to erect appropriate signage to provide notice of the smoking restrictions applicable to all city property.

(Ord. No. 4.095, § 2, 2-23-2009)

Sec. 2.135.100. Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. No. 4.095, § 2, 2-23-2009)

Sec. 2.135.110. Construction; severability.

This chapter shall be liberally construed so as to further its purposes. The provisions of this chapter are severable. If any provision, or its application to any person or circumstance, is held invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

(Ord. No. 4.095, § 2, 2-23-2009)

Sec. 2.135.120. Electronic cigarettes.

The use of electronic cigarettes also known as e-cigs is prohibited within the City of Gladstone in the same manner as lighted smoking materials like lighted cigarettes, cigars, pipes or other tobacco products are prohibited by this chapter. All the provisions of this chapter prohibiting the use of lighted smoking materials like lighted cigarettes, cigars, pipes or other tobacco products also apply to the use of electronic cigarettes.

(Ord. No. 4.262, 3-10-2014)

Title III OFFENSES³³

³³Editor's note(s)—Ord. No. 4.371 Editor's note(s)—, § 1, adopted Nov. 28, 2016, amended tit. III in its entirety to read as herein set out. Former tit. III, §§ 3.100.010Editor's note(s)—3.100.160, 3.100.180Editor's note(s)—, 3.100.190Editor's note(s)—, 3.105.010Editor's note(s)—3.105.040, 3.110.010Editor's note(s)—, 3.110.020Editor's note(s)—, 3.115.010Editor's note(s)—3.115.060, 3.120.010Editor's note(s)—, 3.120.020Editor's note(s)—, 3.125.010Editor's note(s)—3.125.050, 3.130.010Editor's note(s)—, 3.130.100, 3.135.010Editor's note(s)—3.135.080, 3.140.010Editor's note(s)—3.140.070, 3.145.010Editor's note(s)— pertained to offenses, and derived from Code 1974, §§ 21-1—21-5, 21-5.1, 21-5.2, 21-8, 21-9, 21-11.1—21-11.8, 21-13, 21-13.1, 21-13.2, 21-14—21-17, 21-18.1, 21-19, 21-20, 21-20.1, 21-

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Title III OFFENSES

20.2, 21-22, 21-23, 21-25—21-30, 21-30.1—21-30.3, 21-31.1—21-31.3, 21-32, 30-1—30-4, 30-6—30-8; Ord. No. 3.023, §§ 1, 2, 10-29-1991; Ord. No. 3.024, § 2, 10-29-1991; Ord. No. 3.030, § 1, 11-25-1991; Ord. No. 3.071, §§ 1(1)—1(7), 4-27-1992; Ord. No. 3.136, § 2, 10-26-1992; Ord. No. 3.569, § 1, 1-13-1997; Ord. No. 3.691, § 1, 9-10-1998; Ord. No. 3.813, § 1(21-35), 11-12-2001; Ord. No. 3.886, §§ 2, 3, 10-13-2003; Ord. No. 3.956, § 1, 5-9-2005; Ord. No. 4.026, §§ 1, 2, 3-26-2007; Ord. No. 4.049, § 1, 10-22-2007; Ord. No. 4.103, § 1, 4-27-2009; Ord. No. 4.131, § 1, 2-8-2010; Ord. No. 4.226, 1-28-2013. This chapter shall be in full force and effect on January 1, 2017.

Cross reference(s)—Traffic code, title IV.

CHAPTER 100. GENERAL PROVISIONS

Sec. 3.100.010. Abandoned, wrecked, etc., motor vehicles or other personal property—

Removal by ~~public safety department~~police department.

The ~~public safety department~~police department is hereby authorized to remove any unidentified, stolen, wrecked or abandoned vehicle or other personal property found upon any public street or other public property of the city, and shall, and is hereby authorized to, keep such vehicle or property in custody until redeemed by the owner thereof or otherwise disposed of as provided in this chapter; and such property shall be subject to the actual cost of removal from such public place and a reasonable storage charge for as long as such property is in the custody of the city. Unidentified, stolen, wrecked or abandoned motor vehicles or other personal property is hereby defined to be such motor vehicle or personal property which remains upon public property for a period longer than 48 hours, the owner of which cannot be located or has refused to remove such vehicle or property.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.020. Same—Sale; application of money received.

All motor vehicles and other personal property impounded by the ~~police~~public safety department pursuant to the provisions of section 3.100.010 and unredeemed by the owners thereof for a period of 60 days shall thereafter be subject to sale by the city clerk to the highest bidder for cash at public auction, and the proceeds of such sale shall be applied first to all charges accumulated against such article, which shall be deposited with the city treasurer and shall be credited to the general fund of the city. The balance of such sum, if any, shall be kept in a separate fund for a period of one year from the date of receipt, and if, at the end of such year, the former owner of such property has not made satisfactory proof of claim as provided in this article, then the balance of such proceeds of sale shall be credited to the general fund of the city.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.030. Same—Publication of notice of sale; city clerk to keep record of sales.

Whenever the city clerk shall decide to offer impounded properties for public sale, the city clerk shall publish one notice of such sale in a newspaper of general circulation in the city, at least five days before such sale. Such publication shall briefly describe the property to be sold and give the make, model and motor number of the motor vehicles to be sold. The city clerk shall keep a complete list of all properties impounded, the description thereof, the date of publication for sale, the price received therefor, the charges against such property and the disbursement of funds received from such sale.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.040. Same—Impoundment and redemption.

- (a) Any law enforcement officer within the officer's jurisdiction, or an officer of a government agency where that agency's real property is concerned, may authorize a towing company to remove to a place of safety:
 - (1) Any abandoned property on the right-of-way of:

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- a. Any interstate highway or freeway in an urbanized area, left unattended for ten hours;
 - b. Any interstate highway or freeway outside of an urbanized area, left unattended for 48 hours;
 - c. Any state highway other than an interstate highway or freeway in an urbanized area, left unattended for more than ten hours; or
 - d. Any state highway other than an interstate highway or freeway outside of an urbanized area, 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 subsection 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 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 arrested 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 local ordinance is subject to towing because of the owner's outstanding traffic or parking violations.
- (b) If a person abandons property, as defined in RSMo 304.001, on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any member of the state highway patrol, state water patrol, sheriff, or other law enforcement officer within such officer's jurisdiction may authorize a towing company to remove such abandoned property from the property in the following circumstances:
 - (1) The abandoned property is left unattended for more than 48 hours; or
 - (2) In the judgment of a law enforcement officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.
 - (c) The owner of real property or lessee or property or security manager in lawful possession of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a law enforcement officer only when the owner, lessee or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow under this subsection may be made only under any of the following circumstances:
 - (1) There is displayed, in plain view at all entrances to the property, a sign not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property improperly parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained; or a 24-hour staffed emergency information telephone number, other than the number of a towing company, by which the owner of the abandoned property or improperly parked property may call to receive information regarding the location of such owner's property;
 - (2) The abandoned property is on private property and lacks an engine, transmission, wheels, tires, doors, windshield or any other major part or equipment necessary to operate safely on the highways, the

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owner or lessee of the private property has notified the city police or county sheriff, as appropriate, and 96 hours have elapsed since that notification; or

- (3) The abandoned property is left unattended on private property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the appropriate law enforcement agency, and ten days have elapsed since that notification.
- (d) Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a law enforcement officer shall within one hour of the tow file an abandoned property report with the appropriate law enforcement agency where the property is located. The report shall contain the following:
 - (1) The year, model, make and abandoned property identification number of the property and the owner and any lien holders, if known;
 - (2) A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;
 - (3) The license plate or registration number and the state of issuance, if available;
 - (4) The physical location of the property and the reason for requesting the property to be towed;
 - (5) The date the report is completed;
 - (6) The signature and printed name, address and phone number of the owner, lessee or property or security manager in possession of the real property;
 - (7) The towing company's name and address;
 - (8) The signature of the towing operator;
 - (9) The name of the law enforcement agency notified of the abandoned property.
- (e) The law enforcement agency receiving such abandoned property report must record the date the abandoned property report is filed with such agency and within five days of such filing make an inquiry into the national crime information center and any statewide law enforcement computer system to determine if the abandoned property has been reported as stolen. The law enforcement agency shall enter the information pertaining to the towed property into the statewide enforcement computer system. The department of revenue may design and sell to towing companies informational brochures outlining owner or lessee of real property obligations pursuant to this section.
- (f) Neither the law enforcement officer nor anyone having custody of abandoned property under the law enforcement officer's direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.
- (g) Any towing company which tows abandoned property without authorization from a law enforcement officer pursuant to subsection (c)(1) of this section shall within one hour of the tow report the event and the circumstances to the local law enforcement agency where the abandoned property report was filed.
- (h) The law enforcement agency receiving notification that abandoned property has been towed by a towing company shall record the date the property was towed and shall forward a copy of the abandoned property report to the director of revenue.
- (i) If any owner or lessee of real property authorizes the removal of abandoned property pursuant to subsection (c) of this section and such property is so removed and no sign is displayed prior to such removal as required pursuant to subsection (c) of this section, then the owner or lessee shall be deemed guilty of a violation of this Code.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.050. Attempt to commit offense.

- (a) Guilt for an offense may be based upon an attempt to commit an offense if, with the purpose of committing the offense, such person does any act which is a substantial step towards the commission of the offense. A "substantial step" is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.
- (b) It is no defense to a prosecution under this section that the offense attempted was, under the actual attendant circumstances, factually or legally impossible of commission, if such offense could have been committed had the attendant circumstances been as the actor believed them to be.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.060. Penalty for violation of section 3.100.050.

Any person who violates section 3.100.050 shall, upon conviction, be deemed guilty of a misdemeanor, and upon conviction may be imprisoned for not more than 90 days or fined not more than \$500.00, or both imprisoned and fined.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.070. Reserved.

Editor's note(s)—Ord. No. 4.394 Editor's note(s)—, § 1, adopted August 28, 2017, repealed § 3.100.070 Editor's note(s)—, which pertained to burning prohibited generally, exception, and derived from Ord. No. 4.371 Editor's note(s)—, § 1, 11-28-2016.

Sec. 3.100.080. Distribution of printed materials to private residences—Definitions.

The following words, terms and phrases, when used in sections 3.100.090 through 3.100.150, shall have the meanings respectively ascribed to them by this section, except when the context clearly indicates a different meaning:

Dwelling means any building or structure used for human abode, including the lot on which such building or structure is located.

Occupant means any adult member of the family or other group residing in a particular dwelling.

Person means any individual, partnership, corporation, estate, cooperative, association or other entity, including both profit and not-for-profit persons.

Person organized for profit means any individual, partnership, corporation, trust, estate, cooperative, association or other entity which has as a purpose or goal, the private gain, direct or indirect, of its members, partners, shareholders, beneficiaries or other constituent elements.

Printed material means all of the following types of printed matter:

- (1) Any and all newspapers, magazines, periodicals and journals which are not distributed pursuant to a subscription agreement;
- (2) All shoppers, flyers, circulars, leaflets, pamphlets, papers, samples, dodgers, booklets, catalogs, brochures, folders, notices or other written, printed, typed or reproduced matter which:

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- a. Advertises for sale any merchandise, product, commodity or thing;
 - b. Directs attention to or advertises any meeting, performance, lecture or event of any kind for which an admission fee is charged for private gain on behalf of a person organized for profit; or
 - c. Advertises, promotes or otherwise directs attention to the activities or organizations which are conducted for private gain on behalf of a person organized for profit.

Residential area means any area zoned specifically for residential use or any area zoned such that residential use is permitted.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.090. Same—Purpose of sections 3.100.080 through 3.100.150.

The purpose of this section, section 3.100.080 and sections 3.100.100—3.100.150 is to protect the people against the nuisance of an incident to the indiscriminate distribution of unsolicited printed materials. The public interest, convenience and necessity requires regulation thereof, and to that end, the purposes of this section, section 3.100.080 and sections 3.100.100—3.100.150 are as follows:

- (1) To protect local residents against the health and safety menace and expense incident to the littering by indiscriminate distribution of the printed material.
- (2) To preserve to the people their constitutional right to receive and disseminate information by distinguishing between the indiscriminate and uncontrolled distribution of unsolicited printed material and the delivery or distribution of requested printed material.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.100. Same—Method.

It shall be unlawful for any person, individually or through agents, employees or otherwise, to distribute or cause to be distributed any printed material within the city unless such printed material is placed or deposited only on or about the handle of the door or otherwise secured or attached to the door of the dwelling place where such printed material is delivered or distributed, or is placed on the front porch or front steps of such dwelling and nowhere else. It shall be unlawful for any such person, individually or through agents, employees or otherwise, to deliver, throw, place, leave or deposit any such printed material in or on the yard, parkway, sidewalks or driveways of any such dwelling; provided that nothing in this section shall be construed as authorizing the use of mailboxes as depositories for such printed material.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.110. Same—Notice by occupant requesting nondelivery.

An occupant of a dwelling may give notice requesting nondelivery of any written or printed material by:

- (1) So stating in writing to either the person who printed, wrote, compiled or manufactured the material or to the person distributing or causing the distribution of the printed material.
- (2) So stating orally to the person distributing or causing the distribution of the printed material.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.120. Same—Information to be contained in material.

It shall be unlawful for any person organized for profit to print, write, compile or manufacture or to cause the printing, writing, compiling or manufacturing of any printed material for use in unsolicited, indiscriminate distributions to dwellings in the residential areas of the city which does not have printed or affixed thereon the names and addresses of the following:

- (1) The person who printed, wrote, compiled or manufactured the printed material.
- (2) The person who distributed or caused the distribution of the printed material.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.130. Same—Exemptions from regulations in sections 3.100.100 through 3.100.120.

The provisions and prohibitions of sections 3.100.100 through 3.100.120 shall not apply to:

- (1) Distributions made by or on behalf of the United States Postal Service.
- (2) Distributions of any newspaper, magazine, periodical or other regularly disseminated publication delivered pursuant to a subscription agreement.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.140. Same—Penalty for violation of sections 3.100.100 through 3.100.120.

- (a) The violation of sections 3.100.100 through 3.100.120 shall be a misdemeanor. Any person found guilty of violating the provisions of any such sections shall, upon conviction, be punished by a fine of not more than \$100.00, or imprisonment not exceeding three months, or both such fine and imprisonment.
- (b) For the purposes of section 3.100.100, each edition of material shall be deemed a single delivery or distribution without regard to the actual number of copies distributed, so that no person may be found guilty of more offense in regard to any one edition of such printed material.
- (c) In assessing penalties upon conviction, the court shall consider whether the person so convicted had made reasonable efforts to comply with sections 3.100.100—3.100.120 and if such person acted through agents, employees or otherwise, whether such person had made a reasonable effort to ensure that such agents, employees or others distributing such printed material complied with sections 3.100.100—3.100.120.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.150. Same—Sections 3.100.080 through 3.100.140 not to permit distribution of other prohibited material.

Sections 3.100.080 through 3.100.140 shall not be construed to permit the distribution of any material otherwise prohibited by this Code.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.160. Littering.

A person commits the offense of littering if he or she places, deposits, or causes to be placed or deposited, any glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, refuse, or rubbish of any kind, nature or description on the right-of-way of any public road or state highway or on or in any of the waters in this city or on the banks of any stream, or on any land or water owned, operated or leased by the state, any board, department, agency or commission thereof or on any land or water owned, operated or leased by the federal government or the city, or on any private real property owned by another without the owner's consent.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.170. Reserved.**Sec. 3.100.180. Dogs on grounds of Gladfest and Bluesfest Festivals prohibited.**

- (a) All dogs shall be prohibited from the grounds being used in conjunction with the annual Gladfest and Bluesfest Festivals, except for dog guides included under "service animals" as defined by and provided for in the Americans with Disabilities Act, Title III, Section 36.104, police service dogs or dogs participating in the Gladstone Area Chamber of Commerce scheduled Gladfest Dog Show event.
- (b) All persons violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum of not less than \$50.00 nor more than \$100.00 or by imprisonment for a term of not more than 30 days or by both said fine and imprisonment.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.100.190. Funeral protests prohibited, when.

- (a) Every citizen may freely speak, write and publish the person's sentiments on all subjects, being responsible for the abuse of the right, but no person shall picket or engage in other protest activities, nor shall any association or corporation cause picketing or other protest activities to occur within 300 feet of any residence, cemetery, funeral home, church, synagogue, or other establishment during or within one hour before or one hour after the conducting of any actual funeral or burial service at that place.
- (b) As used in this section "other protest activities" means any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.
- (c) As used in this section, "funeral" and "burial service" mean the ceremonies and memorial services held in conjunction with the burial or cremation of the dead, but this section does not apply to processions while they are in transit beyond any 300-foot zone that is established under subsection (a) above.
- (d) Any person who violates this section is guilty of a misdemeanor and, upon conviction, may be imprisoned for not more than 90 days or fined not more than \$500.00, or both imprisoned and fined.

(Ord. No. 4.371 , § 1, 11-28-2016)

CHAPTER 105. OFFENSES AGAINST GOVERNMENT ADMINISTRATION

Sec. 3.105.010. 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 or offense, such person escapes or attempts to escape from custody.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.105.020. False reports.

- (a) A person commits the offense of making a false report if such person knowingly:
 - (1) Gives false information to a law enforcement officer 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.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.105.030. Resisting or interfering with officers prohibited.

- (a) A person commits the offense of resisting or interfering with arrest, detention, or stop if he or she knows or reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or stop an individual or vehicle, and for the purpose of preventing the officer from effecting the arrest, stop or detention, he or she:
 - (1) Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or
 - (2) Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.
- (b) This section applies to:
 - (1) Arrests, stops or detentions with or without warrants;
 - (2) Arrests, stops or detentions for any offense, infraction or ordinance violation; and
 - (3) Arrests for warrants issued by a court or a probation and parole officer.
- (c) A person is presumed to be fleeing a vehicle stop if he or she continues to operate a motor vehicle after he or she 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 him or her.
- (d) It is no defense to a prosecution under 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.

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(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.105.040. Failure to appear in municipal court.

- (a) That any person having been summoned or ordered to appear before the municipal court of the city, either by written summons, state uniform traffic citation, warrant, subpoena, notice of appeal, bail bond, recognizance, or any other lawful order or notification, and who shall fail to appear upon and at the date and time set for said appearance, or at the time, or within the time period recited upon said summons, citation or notification, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than 90 days, or both such fine and imprisonment.
- (b) It shall be the duty and the obligation of all persons having been so summoned or ordered to appear to inform himself or herself of the date to which any such cause or action shall have been continued, recessed, adjourned or transferred and to appear upon and at such date and time to which such cause or action was continued, recessed, adjourned or transferred.
- (c) Nothing herein shall prevent the municipal court from exercising its power of contempt and punishing for such nonappearances by the exercise of such contempt power.

(Ord. No. 4.371 , § 1, 11-28-2016)

CHAPTER 110. OFFENSES AGAINST FAMILY

Sec. 3.110.010. Nonsupport.

- (a) A person commits the offense of nonsupport if such person knowingly fails to provide, without good cause, adequate support for such person's spouse; a parent commits the crime of nonsupport if such parent knowingly fails to provide, without good cause, adequate support which such parent is legally obligated to provide for such parent's child or stepchild who is not otherwise emancipated by operation of law.
- (b) For purposes of this section:
 - (1) *Child* means any biological or adoptive child, or any child legitimated by legal process, or any child whose relationship to the defendant has been determined, by a court of law in a proceeding for dissolution or legal separation, to be that of child to parent;
 - (2) *Good cause* means any substantial reason why the defendant is unable to provide adequate support. Good cause does not exist if the defendant purposely maintains their inability to support;
 - (3) *Support* means food, clothing, lodging, and medical or surgical attention;
 - (4) It shall not constitute a failure to provide medical and surgical attention, if nonmedical remedial treatment recognized and permitted under the laws of this state is provided.
- (c) The defendant shall have the burden of injecting the issues raised by subsections (b)(2) and (4) of this section.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.110.020. Violation of order of protection.

- (a) It shall be unlawful for any person to violate the terms or conditions of an order of protection, a full order of protection or an ex-parte order of protection entered by a court of the State of Missouri pursuant to RSMo

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455.010—455.085, or a similar order issued by any other state, tribe, territory or possession of the United States, the Commonwealth of Puerto Rico or the District of Columbia (hereinafter referred to collectively as an order of protection).

- (b) A certified copy of any order of protection shall be prima facie evidence of the existence and validity of the order of protection. An ex-parte order of protection must show that the order had been served prior to the violation. Full orders of protection do not need to be served and therefore evidence of service is not required.
- (c) Refusal of the person for whose benefit the order of protection was issued to sign a complaint or to testify shall not be a defense to a violation of an order of protection.
- (d) Any person found guilty of violating an order of protection under the terms of this section shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than 90 days, or both such fine and imprisonment.

(Ord. No. 4.371 , § 1, 11-28-2016)

CHAPTER 115. OFFENSES AGAINST MORALS

Sec. 3.115.010. Sexual misconduct.

- (a) For the purposes of this section, the following terms shall have the meanings set forth herein:

Deviate sexual intercourse means any act involving the genitals of one person and the hand, mouth, tongue or anus of another person or a sexual act involving the penetration, however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

Sexual conduct means sexual intercourse, deviate sexual intercourse or sexual contact.

Sexual contact means any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

Sexual intercourse means any penetration, however slight, of the female genitalia by the penis.

- (b) A person commits the offense of sexual misconduct if such person:
 - (1) Exposes the person's own genitals under circumstances in which such person knows that this conduct is likely to cause affront or alarm;
 - (2) Has sexual contact in the presence of a third person or persons under circumstances in which such person knows that such conduct is likely to cause affront or alarm; or
 - (3) Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.115.020. Sale or exhibit of material harmful to minors—Definitions.

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

Furnish means to issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit or otherwise provide.

Material means anything printed or written, or any picture, drawing, photograph, motion-picture film, videotape or videotape production, or pictorial representation, or any recording or transcription, or any mechanical, chemical or electrical reproduction, or stored computer data, or anything which is or may be used as a means of communication. "Material" includes undeveloped photographs, molds, printing plates, stored computer data, and other latent representational objects.

Minor means any person under the age of 17 years.

Nudity or state of nudity means the showing of the human genitals, pubic area, vulva, anus, anal cleft, of the female breast with less than a fully opaque covering of any part of the nipple or areola.

Obscene means any material or performance if, taken as a whole:

- (1) Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and
- (2) The average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and
- (3) A reasonable person would find the material lacks serious literary, artistic, political or scientific value.

Performance means any play, motion-picture film, videotape, dance or exhibition performed before an audience of one or more.

Pornographic for minors means any material or performance if the following apply:

- (1) The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors; and
- (2) The material or performance depicts or describes nudity, sexual conduct, the condition of human genitals when in a state of sexual stimulation or arousal or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and
- (3) The material or performance, taken as a whole, lacks serious literary, artistic, political or scientific value for minors.

Promote means to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit or advertise, or to offer or agree to do the same, by any means including a computer.

Sadomasochistic abuse means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Sexual conduct means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is a female, breast.

Sexual excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.115.030. Promoting pornography for minors or obscenity.

- (a) A person commits the offense of promoting pornography for minors or obscenity if, knowing of its content and character, he/she:

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- (1) Promotes or possesses with the purpose to promote any obscene materials for pecuniary gain; or
 - (2) Produces, presents, directs or participates in any obscene performance for pecuniary gain; or
 - (3) Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain; or
 - (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.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.115.040. Furnishing pornographic materials to minors.

- (a) A person commits the offense of furnishing pornographic material to minors if, knowing of its content and character, he/she:
 - (1) Furnishes any material pornographic 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; or
 - (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, 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.
- (b) It is not a defense to a prosecution for a violation of this section that the person being furnished the pornographic material is a peace officer masquerading as a minor.
- (c) The offense of furnishing pornographic material to minors or attempting to furnish pornographic material to minors is an ordinance violation.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.115.050. Reserved.

Sec. 3.115.060. Same—Exceptions.

- (a) Nothing in sections 3.115.020—3.115.050 shall prohibit any parent from distributing such materials to such parent's own child.
- (b) Nothing in sections 3.115.020—3.115.050 shall be deemed to apply to any recognized works of art or exhibitions conducted by or under the auspices of a museum of art or to any material used or distributed in aid of legitimate scientific or educational purposes.

(Ord. No. 4.371 , § 1, 11-28-2016)

CHAPTER 120. OFFENSES AGAINST THE PERSON

Sec. 3.120.010. Assault.

- (a) A person commits the offense of assault if:
- (1) The person attempts to cause or recklessly causes physical injury, physical pain, or illness to another person;
 - (2) With criminal negligence the person causes physical injury to another person by means of a firearm;
 - (3) The person purposely places another person in apprehension of immediate physical injury;
 - (4) The person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person;
 - (5) The person knowingly causes or attempts to cause physical contact with a person with a disability, which a reasonable person, who does not have a disability, would consider offensive or provocative; or
 - (6) The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.
- (b) Except as provided in subsection (a)(3) of this section, assault in the fourth 16 degrees is a class A misdemeanor.
- (c) Violation of the provisions of subsection (a)(3) or (6) of this section is a class C misdemeanor unless the victim is a special victim, as the term special victim is defined under RSMo 565.002, in which case a violation of such provisions is a class A misdemeanor.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.120.020. Harassment.

A person commits the offense of harassment if, without good case, engages in any act with the purpose to cause emotional distress to another person.

(Ord. No. 4.371 , § 1, 11-28-2016)

State law reference(s)—Similar provisions, RSMo 565.090.

CHAPTER 125. OFFENSES AGAINST PROPERTY

Sec. 3.125.010. Property damage.

A person commits the offense of property damage if:

- (1) Such person knowingly damages property of another; or
- (2) Such person damages property for the purpose of defrauding an insurer.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.125.020. Stealing—Definitions.

The following words, terms and phrases, when used in this section and sections 3.125.030 and 3.125.040, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Appropriate means to take, obtain, use, transfer, conceal or retain possession of.

Coercion means a threat, however communicated:

- (1) To commit any offense;
- (2) To inflict physical injury in the future on the person threatened or another;
- (3) To accuse any person of any offense;
- (4) To expose any person to hatred, contempt or ridicule;
- (5) To harm the credit or business repute of any person;
- (6) To take or withhold action as a public servant, or to cause a public servant to take or withhold action;
or
- (7) To inflict any other harm which would not benefit the actor.

A threat or accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

Deceit means purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that such actor did not subsequently perform the promise.

Deprive means:

- (1) To withhold property from the owner permanently;
- (2) To restore property only upon payment of reward or other compensation; or
- (3) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

Of another means property or services, if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

Property means anything of value, whether real or personal, tangible or intangible, in possession or in action, and includes but is not to be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument.

Services means transportation, telephone, electricity, gas, water, cable television services, or other public services, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.125.030. Same—Prohibited.

(a) A person commits the offense of stealing if he or she:

- (1) Appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion;
- (2) Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion; or
- (3) For the purpose of depriving the owner of a lawful interest therein, receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.125.040. Same—Penalties.

Every person who violates section 3.125.030 shall be deemed guilty of a misdemeanor and, upon conviction, may be punished as provided in section 1.100.140 of this Code.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.125.050. Trespassing.

- (a) A person commits the offense of trespass if such person knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property.
- (b) A person does not commit the offense of trespass by entering or remaining upon real property unless the real property is fenced or otherwise enclosed in a manner designed to exclude intruders or as to which notice against trespass is given by:
 - (1) Actual communication to the actor; or
 - (2) Posting in a manner reasonably likely to come to the attention of intruders.

(Ord. No. 4.371 , § 1, 11-28-2016)

CHAPTER 130. OFFENSES AGAINST PUBLIC PEACE AND SAFETY

Sec. 3.130.010. Disturbing the peace.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings as set forth in this subsection, except where the context clearly indicates a different meaning:

Private property means any place which at the time is not open to the public. The term "private property" includes property which is owned publicly or privately.

Property of another means any property in which the actor does not have a possessory interest.

Public places means any place which at the time is open to the public. The term "public place" includes property which is owned publicly or privately.

If a building or structure is divided into separate occupied units, such units are separate premises.

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- (b) *Peace disturbances.* A person commits the crime of peace disturbance and shall be deemed guilty of a misdemeanor if:
- (1) Such person unreasonably and knowingly disturbs or alarms another person or persons 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) Such person is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:
 - a. Vehicular or pedestrian traffic; or
 - b. The free ingress or egress to or from a public place or private property.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.130.020. Drug paraphernalia—Definitions.

The following words, terms and phrases, when used in this section and section 3.130.030, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Controlled substance means a drug, substance, or immediate precursor as defined in RSMo 195.010.

Deliver or delivery means 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; or
- (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) All equipment, products and materials any kind of which are used or intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of RSMo Ch. 195.

(2) The term "drug paraphernalia" includes, but is not limited to:

- a. Kits used or 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 or 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 or intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance or imitation controlled substances;
- d. Testing equipment used or 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 or 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 or intended for use, or designed for use, in cutting controlled substances or imitation controlled substances;
- g. Separation gins and sifters used or 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 or intended for use, or designed for use, in compounding controlled substances or imitation controlled substances;
- i. Capsules, balloons, envelopes and other containers used or intended for use, or designed for use, in packaging small quantities of controlled substances or imitation controlled substances;
- j. Containers and other objects used or 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 or intended for use, or designed for use, in parenterally injecting controlled substances or imitation controlled substances into the human body;
- l. Objects used or 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;

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11. Chillums;
 12. Bongs;
 13. Ice pipes or chillers.

(3) 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 substances;
- c. The proximity of the object, in time and space, to a direct violation of this section and section 3.130.030;
- 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 whom such person knows intend to use the object to facilitate a violation of this act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this section and section 3.130.030 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 and 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.

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 or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

- (1) By a practitioner as an incident to the practitioner administering or dispensing a controlled substance or an imitation controlled substance in the course of the practitioner's professional practice; or
- (2) By a practitioner or the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

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.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.130.030. Unlawful possession of drug paraphernalia.

A person commits the offense of unlawful possession of drug paraphernalia if he or she knowingly uses, or possesses with intent to use, drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, a controlled substance or an imitation controlled substance in violation of RSMo Ch. 579, or RSMo Ch. 195.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.130.040. Explosive or other lethal devices prohibited.

Any person who shall leave in the city any explosive or incendiary bomb or lethal device, or any object which purports to be, or is an imitation of, or resembles any such explosive or incendiary bomb, or other lethal device calculated to, or of a character reasonably expected to, create public apprehension of danger or to cause public authorities to expend time or money in investigating the character of such device for the purpose of protecting the public or any person from anticipated danger shall be deemed guilty of a misdemeanor.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.130.050. Possession of marijuana or synthetic cannabinoid.

A person commits the offense of possession of marijuana or any synthetic cannabinoid, as both terms are defined in RSMo 195.010, if he or she knowingly possesses marijuana or any synthetic cannabinoid, except as authorized by RSMo Ch. 579 or RSMo Ch. 195.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.130.060. Reserved.

Sec. 3.130.070. Rioting.

A person commits the offense of rioting if such person knowingly assembles with six or more other persons and agrees with such persons to violate any of the criminal laws of this state or of the United States with force or violence, and thereafter, while still so assembled, does violate any of such laws with force or violence.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.130.080. Simulated drugs—Defined.

The term "simulated drugs" or "simulated controlled substances" means any product which identifies itself by using a common name or slang term, or similar name, term or mark, or brand associated with a controlled substance as defined in Schedules I through V as set in RSMo 195.017, or which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.130.090. Same—Sale or delivery prohibited.

It shall be unlawful for any persons to sell or deliver any simulated drug or simulated controlled substance to another person.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.130.100. Same—Penalty.

Any person who violates section 3.130.090 is guilty of a misdemeanor and, upon conviction, may be imprisoned for not more than 90 days or fined not more than \$500.00, or both imprisoned and fined.

(Ord. No. 4.371 , § 1, 11-28-2016)

CHAPTER 135. WEAPONS

Sec. 3.135.010. Unlawful use of weapons.

- (a) *Definitions.* For the purposes of this chapter, the terms and phrases used herein shall have the definitions given them as contained in RSMo 571.010.
- (b) *Prohibited acts.* A person commits the crime of unlawful use of a weapon if such person knowingly:
 - (1) Carries concealed upon or about their person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use into any area where firearms are restricted under RSMo 571.107.
 - (2) Discharges a firearm within the city limits of Gladstone.
 - (3) Possesses a firearm or projectile weapon while intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self-defense.
 - (4) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any school, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government or political subdivision thereof.
 - (5) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use, into any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.
- (c) *Exceptions generally.* Subsections (b)(1), (4) and (5) of this section shall not apply to or affect the persons described in this subsection, regardless of whether such uses are reasonably associated with or are necessary

to the fulfillment of such person's official duties except as otherwise provided in this subsection. Subsection (a)(2) of this section shall not apply to or affect any of the following persons, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties, except as otherwise provided in this subsection:

- (1) All state, county, and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to RSMo 590.030 to 590.050, and who possess the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are within or outside their jurisdictions, or on-duty or off-duty, or all qualified retired peace officers, as defined in subsection (12) of RSMo 571.030, and who carry the identification defined in subsection (13) of RSMo 571.030, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 - (2) Wardens, superintendents, and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
 - (3) Members of the armed forces or National Guard while performing their official duty;
 - (4) Those persons vested by article V, section 1 of the state constitution (Mo. Const. art. V, § 1) with the judicial power of the state and those persons vested by article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;
 - (5) Any person whose bona fide duty is to execute process, civil or criminal;
 - (6) Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921, regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction;
 - (7) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under RSMo 84.340;
 - (8) Any state probation and parole officer, including supervisors and members of the board of probation and parole, authorized to carry a firearm pursuant to RSMo 217.710;
 - (9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner;
 - (10) Any municipal or county prosecuting attorney or assistant prosecuting attorney; circuit attorney or assistant circuit attorney; municipal, associated, or circuit judge; or any person appointed by a court to be a special prosecutor who has completed the firearms safety training course required under subsection (2) of RSMo 571.111;
 - (11) Any member of a fire department or fire protection district who is employed on a full-time basis as a fire investigator and who has a valid concealed carry endorsement issued prior to August 28, 2013, or a valid concealed carry permit under RSMo 571.111, when such uses are reasonably associated with or necessary to the fulfillment; and
 - (12) Upon the written approval of the governing body of a fire department or fire protection district, any paid fire department or fire protection district member who is employed on a full-time basis and who has a valid concealed carry endorsement prior to August 28, 2013, or a valid concealed carry permit, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.
- (d) *Transport exceptions.* Subsections (b)(1), (3), (4), and (5) of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subsection (b)(1) of this section does not apply to any person 19 years of age or older or 18 years of age or older and a member of the United States Armed

Forces, or honorably discharged from the United States Armed Forces, transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, or when the actor is also in possession of an exposed firearm or projectile weapons for the lawful pursuit of game, or is in the actor's dwelling unit or upon business premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subsection (b)(5) of this section shall not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilities of a school sanctioned firearm-related event.

- (e) *Exception for persons with concealed carry endorsement.* Subsections (b)(1), (3), and (4) of this section shall not apply to any person who has a valid concealed carry permit issued pursuant to RSMo 571.101—571.121, a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.
- (f) Subsections (b)(2), (b)(3), (b)(4) and (b)(5) of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to RSMo 563.031.
- (g) Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored or club-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.
- (h) *Penalty.* Any person violating this section shall be punished upon conviction thereof as provided by section 1.100.140 of this Code.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.135.020. Possession, manufacture, transport, repair and sale of certain weapons prohibited; exceptions.

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

Knuckles means any instrument that consists of finger rings or guards made of a hard substance that is designed or adapted for the purpose of inflicting serious physical injury or death by striking a person with a fist enclosed in the knuckles.

Switchblade knife means any knife which has a blade that folds or closes into the handle or sheath, and that opens automatically by pressure applied to a button or other device located on the handle; or that opens or releases from the handle or sheath by the force of gravity or by the application of centrifugal force.

- (b) *Commission of offense.* A person commits an offense if such person knowingly possesses, manufactures, transports, repairs, or sells a switchblade knife or knuckles.
- (c) *Exception.* A person does not commit a crime under this section if such person's conduct:
 - (1) Was incident to the performance of official duty by the armed forces, National Guard, a governmental law enforcement agency, or a penal institution;
 - (2) Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in subsection (c)(1) of this section;
 - (3) Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise;

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- (4) Was incident to displaying the weapon in a public museum or exhibition; or
 - (5) Was incident to dealing with the weapon solely as a curio, ornament, or keepsake, or to using it in a manner reasonably related to a lawful dramatic performance.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.135.030. Possession prohibited outside person's own home; exceptions.

- (a) Subject to the exceptions established in this chapter, it shall be unlawful for any person within the city to have in such person's possession, except within the person's own domicile, or carry or use, a revolver or pistol of any description, shotgun or rifle which may be used for the explosion of cartridges, or any air gun, BB gun, gas operated gun or spring gun, or any instrument, toy, weapon or bow made for the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether such instrument is called by any name set forth in this subsection or by any other name.
- (b) The prohibitions of this section shall not apply to licensed shooting galleries or on private grounds or premises under circumstances clearly demonstrating that such instrument can be fired, discharged or operated in such a manner as not to endanger persons or property, and also in such manner as to prevent the projectile from traversing any grounds or space outside the limits of such gallery, grounds or residence. Neither shall the provisions hereof prevent the carrying of any such weapon when unloaded and properly cased, or when unloaded and unconcealed to or from any range or gallery or to and from an area where hunting is allowed by law. However, no firearm shall be fired within the city, except in a licensed shooting gallery or within a private enclosed shooting gallery.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.135.040. Possessing or exhibiting in threatening, etc., manner or while intoxicated.

No person shall, within the city, in the presence of one or more persons, exhibit any dangerous or deadly weapon of any kind or description in a rude, angry or threatening manner, or have any such weapon or any rod, knife or other object in such person's possession with the intent of causing or threatening to cause physical injury to any other person.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.135.050. Discharging firearms by minors prohibited; exceptions.

Any person who shall, or any person having temporary or permanent custody of a minor who shall allow such minor to fire or discharge any firearms or ammunition therefor in the city, except for the following purposes and then only under conditions which do not endanger the life or property of any person, shall be deemed guilty of a misdemeanor:

- (1) The firing of salutes pursuant to military services at funerals.
- (2) The firing of a firearm by one whose business entails the testing of firearms in established facilities constructed and maintained for such purposes.
- (3) The firing of a firearm on a regularly established range pursuant to a permit issued by the city therefor.
- (4) The firing of a firearm by ~~public safety~~police officers in the performance of official duty or by any person in the lawful defense of their person or property.

(Ord. No. 4.371 , § 1, 11-28-2016)

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Sec. 3.135.060. Discharging arrows from bow or crossbow by minor prohibited; exceptions.

Any person who shall, or any person having temporary custody of a minor who shall permit such minor to discharge arrows from a bow or crossbow in the city, except for the following purposes, and then only under conditions which do not endanger the life or property of any person, shall be deemed guilty of a misdemeanor:

- (1) The shooting of bow or crossbow on a regularly established range pursuant to a permit issued by the city therefor.
- (2) The shooting of bow or crossbow by one whose business entails the testing of such equipment in established facilities constructed and maintained for such purposes.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.135.070. Sale to or possession by minors.

No person shall, directly or indirectly, sell, deliver, loan or barter to any person under 18 years of age, without the consent of the parent or guardian of such minor, any kind of firearm, gun, revolver, pistol, starter pistol or firearm of any description, or any dangerous missile, casing or any ammunition, cartridge, shell or other device, whether containing any explosive substance or not, designed and intended for use in any weapons or devices enumerated or described in this section.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.135.080. Firearms and other weapons prohibited on city property and posted property.

- (a) No person who has been issued a concealed carry endorsement by the state director of revenue under RSMo 571.094, or a concealed carry permit 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 a concealed or unconcealed firearm in any portion of a building owned, leased, or controlled by the city, or onto or into any property posted as being off limits to concealed or unconcealed firearms as defined in subsection (c) of this section. For purposes of this section, the term "building" shall include city hall, the public works building, the water plant, the community building, the swimming pool, and each and every shelter house, gazebo, restroom, concession stand, and roofed structures of any kind or location, owned, operated, leased, or controlled by the city, including any area within any city park where access has been restricted, either permanently or temporarily, by a fence or gate placed or constructed by authority of the director of the department of parks and recreation. ~~Public safety~~Police officers of the city, the state, or any other political subdivision of the state, and privately employed and properly licensed security personnel acting within the scope of their employment, shall be exempt from the prohibitions contained in this subsection (a).
- (b) No person who has been issued a concealed carry endorsement by the state director of revenue under RSMo 571.094, or a concealed carry permit 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 a concealed or an unconcealed firearm or other weapon onto any private property whose owner has posted a sign as described in subsection (c) of this section, in a conspicuous place, prohibiting firearms or other weapons.
- (c) The sign required pursuant to subsections (a) and (b) of this section shall be placed on the premises in a conspicuous place with a minimum size of 11 inches by 14 inches with the writing thereon in letters of not less than one inch stating that the carrying of firearms and other weapons is prohibited on the premises. If the property posted is open to the public, signs shall be posted at each public entrance.

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- (d) No city employee, except ~~public safety~~police officers and other such persons as may be authorized by the city manager, shall carry any firearm or other weapon onto or in any city property, or in any city vehicle.
- (e) The prohibitions contained in this section shall not apply to buildings used for public housing by private persons, or highways, rest areas, firing ranges, or private dwellings owned, leased, or controlled by the city.
- (f) The prohibitions contained in this section shall apply with equal effect to all persons who possess a certificate of qualification from the sheriff of any jurisdiction within the state, prior to July 1, 2004, when the concealed carry endorsement mandated by Missouri House Bill 49 is to be issued by the state department of revenue.
- (g) Any person carrying such a concealed firearm or other weapon who, after request, refuses to leave any premises that has been properly posted as provided in this section, and where such refusal results in the summoning of a peace officer, shall be issued a citation for violation of this section, and upon a finding by a judge of the municipal court that such person refused to leave a posted premises when requested to do so, be fined an amount not to exceed \$100.00 for the first violation, \$200.00 for the second violation if within six months of the first citation, and \$500.00 for the third or subsequent violation if within one year of the first citation.

(Ord. No. 4.371 , § 1, 11-28-2016)

CHAPTER 140. FAIR HOUSING

Sec. 3.140.010. Definitions.

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

Aggrieved person means any person who is attempting to provide housing for such person and/or their family in the city.

Discriminate means distinctions in treatment because of race, sex, color, religion, disability, familial status, sexual orientation, gender identity, or national origin of any person.

Dwelling means a building or portion thereof, designed exclusively for residential occupancy, including one-family, two-family and multiple-family units.

Familial status means one or more individuals (who have not attained the age of 18 years) domiciled with a parent or another person having legal custody of such individual or individuals; or 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 an individual who has not attained the age of 18 years.

Disability means, with respect to a person, a physical or mental impairment which substantially limits one or more of such person's major life activities; a record of having such an impairment; or being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.

Person means any individual, form, partnership or corporation.

(Ord. No. 4.371, § 1, 11-28-2016; Ord. No. 4.420 , § 1, 3-26-2018)

Sec. 3.140.020. Discriminatory practices.

It shall be a violation of this chapter for any person to:

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- (1) Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person in a discriminatory manner.
 - (2) 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.
 - (3) 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 or limitation, in a discriminatory manner.
 - (4) Represent to any person in a discriminatory manner that any dwelling is not available to 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 or a person or persons of a particular race, sex, color, religion, handicap, familial status, or national origin.
 - (6) Bar discrimination in the sale or rental of housing on the basis of a disability, and requires the design and construction of new multifamily dwelling with four or more units to meet certain adaptability and accessibility requirements as set forth in the uniform codes adopted by the city.
 - (7) Bar discrimination in the sale or rental of housing because a family has children, but exempts certain types of buildings that house older persons.

(Ord. No. 4.371 , § 1, 11-28-2016; Ord. No. 4.420 , § 1, 3-26-2018)

Sec. 3.140.030. Discrimination in the financing of a house.

No one may take any of the following actions in a discriminatory manner:

- (1) Refusing to make a mortgage loan;
- (2) Refusing to provide information regarding loans;
- (3) Imposing different terms or conditions on a loan, such as different interest rates, points, or fees;
- (4) Discriminating in appraising a property;
- (5) Refusing to purchase a loan;
- (6) Setting different terms or conditions for purchasing a loan.

(Ord. No. 4.371 , § 1, 11-28-2016; Ord. No. 4.420 , § 1, 3-26-2018)

Sec. 3.140.040. Exemptions.

The provisions of this chapter, and particularly section 3.140.020, shall not apply to the following:

- (1) A rental or leasing of a dwelling unit in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or members of their family reside in such dwelling unit.
- (2) A rental or leasing to less than five persons living in a dwelling unit by the owner if the owner or members of owner's family reside therein.
- (3) Any single-family house sold or rented by an owner provided that such house is sold or rented:

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- a. Without the use of sales or rental facilities or services of real estate brokers, agents, salespersons, or persons in the business of selling or renting dwellings, as defined in subsection (4) of this section; and
 - b. Without the publication, posting or mailing of any advertisements in violation of subsection 3.140.020(3), provided, however, that:
 - 1. Nothing in this subsection shall prohibit the use of attorneys, escrow agents, abstractors, title companies, or other such professional assistance as necessary to perfect or transfer the title; and
 - 2. Any such private individual owner does not own any interest in, nor is there owned or reserved on their behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time.
- (4) For the purposes of subsection (3)(a) of this section, a person shall be in the business of selling or renting dwellings if:
- a. Such person has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;
 - b. Such person has, within the preceding 12 months, participated as agent, other than in the sale of such person's own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - c. Such person is the owner of any dwelling designed or intended for occupancy, by or occupied by five or more families.
- (5) Housing for older persons is exempt from the prohibition against familial status discrimination if:
- a. It houses at least one person who is 55 years of age or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 years of age or older;
 - b. It is intended for, and solely occupied by, persons 62 years of age or older;
 - c. It is specifically designed and operated to assist elderly persons, as defined in a state or federal program.

(Ord. No. 4.371 , § 1, 11-28-2016; Ord. No. 4.420 , § 1, 3-26-2018)

Sec. 3.140.050. Administration; fair housing committee.

- (a) There is hereby created a fair housing committee the membership of which shall consist of the mayor, city manager, community development director, planning commission chair, and the uniform codes board of appeals chair.
- (b) Every complaint of a violation of this chapter shall be referred to the fair housing committee. The fair housing committee shall forthwith notify the person against whom the complaint is made. The identity of the aggrieved person shall be made known to the person against whom the complaint is made at that time. If the fair housing committee, after investigation, finds there is no merit to the complaint, the complaint shall be dismissed. If the fair housing committee finds that there is merit in the complaint, in its opinion, then and in the event the fair housing committee will endeavor to eliminate the alleged discriminatory practice by conference and conciliation.

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- (c) If the fair housing committee is unable to eliminate the alleged discriminatory practice by a conference and conciliation, then and in the event the fair housing committee shall forward such complaint to the city prosecutor for handling. The final determination of whether or not to prosecute on such complaint shall be left to the city prosecutor.

(Ord. No. 4.371 , § 1, 11-28-2016; Ord. No. 4.420 , § 1, 3-26-2018)

Sec. 3.140.060. Enforcement.

Any person convicted of a violation of this chapter shall be punished by a fine of not more than \$500.00 or by confinement in jail for not more than 180 days, or both such fine and imprisonment.

(Ord. No. 4.371 , § 1, 11-28-2016)

Sec. 3.140.070. Savings clause.

This chapter shall not affect violations of any other ordinance, code or regulation of the city existing prior to the effective date of the ordinance from which this chapter is derived. Any such violations shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

(Ord. No. 4.371 , § 1, 11-28-2016)

CHAPTER 145. OFFENSES RELATING TO MINORS

Sec 3.145.010. Endangering the welfare of a child.

- (a) A person commits the offense of endangering the welfare of a child if:
- (1) Such person, with criminal negligence, acts in a manner that creates a substantial risk to the life, body or health of a child less than 17 years old;
 - (2) Such person knowingly encourages, aids or causes a child less than 17 years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection (1) or subdivision (3) of subsection (1) of RSMo 211.031.
 - (3) Being a parent, guardian or other person legally charged with the care or custody of a child less than 17 years old, such person recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent such child from coming within the provisions of paragraph (c) of subdivision (1) of subsection (1) or paragraph (d) of subdivision (2) of subsection (1) or subdivision (3) of subsection (1) of RSMo 211.031; or
 - (4) Such person knowingly encourages, aids or causes a child less than 17 years of age to enter into any room, building or other structure which is a public nuisance as defined in RSMo 579.105.
- (b) Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that the child is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

(Ord. No. 4.371 , § 1, 11-28-2016)

Title IV TRAFFIC CODE³⁴

³⁴Cross reference(s)—Junked motor vehicles, § 2.110.100Cross reference(s)— et seq.; transportation of solid waste, § 2.115.350Cross reference(s)— et seq.; offenses, tit. III; removal of abandoned vehicles, § 3.100.010Cross reference(s)— et seq.; vehicles for hire, § 5.130.010 et seq.

State law reference(s)—Traffic regulations, RSMo 304.001 et seq.; equipment regulations, RSMo 307.010 et seq.; motor vehicle financial responsibility law, RSMo 303.010 et seq.; Missouri Model Traffic Ordinance, RSMo 300.010 et seq.

CHAPTER 100. GENERAL PROVISIONS

Sec. 4.100.010. Model Traffic Ordinance adopted; deletions; numbering of ordinances; clerk to have code printed; admissibility as evidence.

- (a) Chapter 300, consisting of RSMo 300.010—300.600, commonly known as the "Model Traffic Ordinance," is hereby adopted as the traffic ordinance of this city with like effect as if recited at length herein, with the exception of the following sections of such Model Traffic Ordinance, which are not so adopted and which are expressly deleted: RSMo 300.015, 300.020, 300.035, 300.040, 300.050, 300.060, 300.070, 300.205 and 300.325.
- (b) Any other ordinances hereafter adopted pertaining to the operation of motor vehicles and which shall become a part of the traffic code shall receive such codified ordinance numbers as shall orderly correspond with the numbering of the "Model Ordinance" and there shall be certified and printed or otherwise duplicated by the city clerk a full and complete traffic code in numerical sequence which is hereby declared to be the official "Traffic Code of the City of Gladstone, Missouri," and which shall be admissible in evidence in any court or tribunal as evidence of the ordinances of the city.

(Code 1974, § 18-11)

State law reference(s)—Procedure to be followed by cities in adopting Model Traffic Ordinance, RSMo 300.600.

Sec. 4.100.020. Schedules adopted.

Schedules I through X are hereby adopted and made a part of the Model Traffic Ordinance adopted by this chapter. Such schedules are entitled as follows:

- Schedule I. Crosswalks.
- Schedule II. Through streets.
- Schedule III. Truck routes.
- Schedule IV. Parking prohibited (time limit).
- Schedule V. Parking prohibited at all times.
- Schedule VI. Turning movements prohibited.
- Schedule VII. Traffic control signals.
- Schedule VIII. Location of stop signs.
- Schedule IX. Speed zones designated.
- Schedule X. Yield signs.

(Code 1974, § 18-12; Ord. No. 3.677, § 1, 5-11-1998; Ord. No. 4.493, § 2, 10-14-2019)

Editor's note(s)—The schedules adopted by this section are not set out in this volume. They are on file in the office of the city clerk.

Sec. 4.100.030. Traffic regulations.

The following sections shall be a part of the traffic code of the city, and shall bear the section number prefaced to each respectively:

Section 300.011. Definitions.

The following words and phrases when used in the traffic code mean:

Alley or alleyway means any street with a roadway of less than 20 feet in width.

All-terrain vehicle means any motorized vehicle manufactured and used exclusively for off-highway use which is 50 inches or less in width, with an unladen dry weight of 600 pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control.

Authorized emergency vehicle means a vehicle publicly owned and operated as an ambulance, or a vehicle publicly owned and operated by the state highway patrol, police or fire department, sheriff or constable or deputy sheriff, traffic officer or any privately owned vehicle operated as an ambulance when responding to emergency calls.

Business district means the territory contiguous to and including a highway when within any 600 feet along the highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

Central business (or traffic) district means all streets and portions of streets within the area described by city ordinance as such.

~~*Chief of police* means the director of public safety.~~

Commercial vehicle means every vehicle designed, maintained, or used primarily for the transportation of property.

Controlled access highway means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

Crosswalk means:

- (1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway.
- (2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Curb loading zone means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Drive and operate shall be synonymous and their use shall be interchangeable.

Driver means every person who drives or is in actual physical control of a vehicle.

Freight curb loading zone means a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight (or passengers).

Highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Intersection means:

- (1) The area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
- (2) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

Laned roadway means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

Motor vehicle means any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Motorized bicycle means any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than 50 cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than 30 miles per hour on level ground.

Official business means a public officer engaged in the performance of official duties.

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

Official traffic control devices means all signs, signals, markings and devices not inconsistent with the traffic code placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

Park or parking means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Passenger curb loading zone means a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Pedestrian means any person afoot.

Person means every natural person, firm, copartnership, association or corporation.

Police department means the ~~department of public safety~~police department and all officers thereof.

Police officer means ~~public safety officers and~~ 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 right-of-way means the roadway and that property adjacent thereto and parallel therewith which is publicly owned.

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.

Residence district means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

Right-of-way means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

Roadway means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Safety zone means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Sidewalk means that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

Stand or *standing* means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

Stop, when required, means complete cessation from movement.

Stop or *stopping*, when prohibited, means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

Street or *highway* means the entire width between the lines of every way publicly maintained when any part thereof is open to the uses of the public for purposes of vehicular travel. The term "state highway" means a highway maintained by the State of Missouri as a part of the state highway system.

Through highway means every highway or portion thereof on which vehicular traffic is given preferential rights-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield rights-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 traffic code.

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 code means the traffic code and traffic ordinances of the city.

Traffic control signal means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Traffic division means the traffic division of the police department of the city, or in the event a traffic division is not established, then said term whenever used herein shall be deemed to refer to the police department of the city.

Traffic engineer or *traffic authority* means the city traffic engineer, and, if none, then the chief of police ~~or~~ **director of public safety**.

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.

State law reference(s)—Definitions, RSMo 300.010.

Section 300.016. Police administration.

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- (a) The chief of police ~~or director of public safety, if there is one,~~ may establish a traffic division to be under the control of an officer of police appointed by and directly responsible to the chief of police ~~or director of public safety~~. If no such division is established, then the duties and powers thereof shall be performed by such officers as the chief of police ~~or director of public safety~~ may designate.
 - (b) The traffic division with such aid as may be rendered by other members of the police department shall enforce the street traffic regulations of the city and all of the state vehicle laws applicable to street traffic in the city, make arrests for traffic violations, investigate accidents and make reports thereof, cooperate with the city traffic engineer, and carry out those duties imposed upon the division by the traffic code.

Section 300.031. Copies of accident reports.

Whenever any traffic accident investigation report shall have been made by any police officer, any party or other interested person or public official may inspect and copy such report. The chief of police may furnish a copy or duplicate thereof to any such person and may make a reasonable charge for such copying or duplicating, and the proceeds thereof shall become the property of the city.

Section 300.061. City traffic engineer.

- (a) The city may by ordinance establish the office of city traffic engineer to be appointed by the city manager, but if no such office is established or if no such traffic engineer is appointed, then such duties and functions shall be performed by the chief of police ~~or their, director of public safety or the director public safety's~~ delegate.
- (b) The city traffic engineer, if there is one, or the chief of police ~~or director of public safety~~, shall determine the installation and proper timing and maintenance of traffic control devices, conduct analyses of traffic accidents and devise remedial measures, conduct investigations of traffic conditions, plan the operation of traffic on the streets and highways of the city, and cooperate with other city officials in the development of ways and means to improve traffic conditions, and carry out the additional powers and duties imposed by ordinances of the city.

Section 300.075. Authority of police and fire department officials.

- (a) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all 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 chief of police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.
- (c) ~~Officers-Members~~ of the fire department, when at the scene of an incident, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

State law reference(s)—Similar provisions, RSMo 300.075.

Section 300.080. 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.

State law reference(s)—Similar provisions, RSMo 300.080.

Section 300.081. False information.

No person shall knowingly and willfully give or cause to be given to any police officer, while engaged in the performance of such officer's duties, any false report or false information; but nothing in this section shall abridge or prevent any person exercising such person's right against self-incrimination.

Section 300.085. 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 the traffic code applicable to the driver of any vehicle, except those provisions of the traffic code which by their very nature can have no application.

State law reference(s)—Similar provisions, RSMo 300.085.

Section 300.090. Use of coasters, roller skates, and similar devices restricted.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by ordinance of the city.

State law reference(s)—Similar provisions, RSMo 300.090.

Section 300.095. Public employees to obey traffic regulations.

The provisions of the traffic code shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county, or city, and it shall be unlawful for any said driver to violate any of the provisions of the traffic code, except as otherwise permitted in the traffic code.

State law reference(s)—Similar provisions, RSMo 300.095.

Section 300.101. Yielding the right-of-way to traveling and stationary emergency vehicles; permitted acts of drivers of authorized emergency vehicles.

- (a) Upon the immediate approach of an emergency vehicle giving audible signal by siren or while having at least one lighted lamp exhibiting 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, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as far as possible to the right of, the traveled portion of the highway, and thereupon stop and remain in such position until such emergency vehicle has passed, except when otherwise directed by a police or traffic officer or firefighter.
- (b) Upon approaching a stationary emergency vehicle displaying lighted red or red and blue 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) The motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the emergency vehicle has passed, except as otherwise directed by a police or traffic officer.
- (d) An "emergency vehicle" is a vehicle of any of the following types:
 - (1) A vehicle operated by the ~~city public safety department~~ city's police and/or fire department, the state highway patrol, the state water patrol or a state park ranger, and those vehicles operated by enforcement personnel of the division of motor carrier and railroad safety of the state department of economic development, a police or fire department, a sheriff, constable or deputy sheriff, a federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, a traffic officer or coroner or by a privately owned emergency vehicle company.

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- (2) A vehicle operated as an ambulance or operated commercially for the purpose of transporting emergency medical supplies or organs.
 - (3) Any vehicle qualifying as an emergency vehicle pursuant to RSMo 307.175.
 - (4) Any wrecker or tow truck or a vehicle owned and operated by a public utility or public service corporation while performing emergency service.
 - (5) Any vehicle transporting equipment designed to extricate human beings from the wreckage of a motor vehicle.
 - (6) Any vehicle designated to perform emergency functions for a civil defense or emergency management agency established pursuant to the provisions of RSMo ch. 44.
 - (7) Any vehicle operated by an authorized employee of the state department of corrections, who, as part of the employee's official duties, is responding to a riot, disturbance, hostage incident, escape or other critical situation where there is the threat of serious physical injury or death, responding to a mutual aid call from another criminal justice agency, or in accompanying an ambulance which is transporting an offender to a medical facility.
 - (8) Any vehicle designated to perform hazardous substance emergency functions established pursuant to the provisions of RSMo 260.500—260.550.
- (e) (1) The driver of any vehicle referred to in subsection (d) of this section shall not sound the siren thereon or have the front red lights or blue lights on except when such vehicle is responding to an emergency call or when in pursuit of an actual or suspected law violator, or when responding to, but not upon returning from, a fire.
- (2) The driver of an emergency vehicle may:
 - a. Park or stand irrespective of the provisions of RSMo 304.014—304.026.
 - b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
 - c. Exceed the prima facie speed limit so long as the driver does not endanger life or property.
 - d. Disregard regulations governing direction of movement or turning in specified directions.
 - (3) The exemptions herein granted to an emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle.
- (f) No person shall purchase an emergency light as described in this section without furnishing the seller of such light an affidavit stating that the light will be used exclusively for emergency vehicle purposes.

State law reference(s)—Permitted acts of drivers of authorized emergency vehicles, RSMo 300.100; operation of vehicles on approach of authorized emergency vehicles, RSMo 300.105.

Section 300.106. Passing school buses.

The driver of a vehicle upon a highway upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children, and whose driver has in the manner prescribed by law given the signal to stop, shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion, or until signaled by its driver to proceed.

State law reference(s)—Similar provisions, RSMo 304.050(1).

Section 300.111. Accident with unattended vehicle or other property.

The driver of any vehicle involved in an accident causing any damage to an unattended vehicle or other property shall immediately make reasonable effort to ascertain the owner of such vehicle or property and notify such owner of the accident and if reasonably unable to ascertain or notify such owner, the driver shall not leave the scene thereof unless and until such driver has left his/her name and address at the scene at some conspicuous place, and, if the owner cannot be ascertained, then such driver shall by the quickest means of communication available report such accident to the ~~department of public safety~~police department and return or remain at the scene unless and until authorized to proceed by the police.

Section 300.112. Duty in case of accident.

The driver of any vehicle involved in any accident, regardless of amount of damages, shall also immediately stop such vehicle at the scene of the accident, ascertain the damage and render all reasonable assistance to any injured person, shall give his/her name, address, license and registration numbers and any other pertinent information requested by any other driver or injured person involved in the accident, and shall continue to remain at the scene, if requested to do so by either a ~~police~~public safety officer, the other driver, or any such injured person, until authorized to proceed by such ~~police~~public safety officer. Any person failing or refusing to comply with the requirements of this section shall be subject to punishment as provided in section 1.100.140 of the Gladstone City Code.

Section 300.126. Littering.

It shall be unlawful for any operator or passenger in any vehicle to cause or allow debris, litter, paper, junk, obstruction or any other item to be thrown, placed, dropped, unloaded or blown from such vehicle and remain in, upon or about any street, highway, alley, public property or public right-of-way in the city.

Section 300.127. Damaging or obstructing roadway.

No person shall damage, injure or obstruct pedestrian or vehicular traffic upon any street, curb, sidewalk, public property or public right-of-way, either wilfully or negligently.

Section 300.140. Obedience to traffic control devices.

The driver of any vehicle shall obey the instructions of any official traffic control device or sign applicable thereto, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in the traffic code.

State law reference(s)—Similar provisions, RSMo 300.140.

Section 300.145. Automated Enforcement of Traffic Control Signals.

(a) *Definitions.* As used in this section, the following terms mean:

(1) *Automated traffic control signal enforcement system:* A system that:

- a. Consists of cameras and vehicle sensor or sensors installed to work in conjunction with an electrically operated traffic control signal; and
- b. Is capable of producing not less than two high resolution color digital recorded images that show:
 1. The traffic control signal while it is emitting a steady red signal;
 2. The offending vehicle in a position on the roadway that constitutes a violation of a traffic control signal; and
 3. The license plate of the offending vehicle.
- c. To establish a violation of a traffic control signal, One of the images must be of sufficient resolution to clearly show all elements in either the first image captured immediately prior to the

violation, or in the subsequent images captured sequentially after the first image, and while the vehicle is in the intersection while the traffic signal is emitting a steady red signal. The sequence of images must also clearly show the license plate of the vehicle sufficiently to identify the license number and state of issuance of the license.

- (2) *Operator*: Any individual driving and/or in possession of a vehicle.
 - (3) *Owner*: The owner of a motor vehicle as shown as established by the motor vehicle registration records of the Missouri Department of Revenue or the analogous department of another state or country. The term "owner" includes:
 - a. A lessee of a motor vehicle under a lease of six months or more; or
 - b. The lessee of a motor vehicle rented or leased from a motor vehicle rental or leasing company, but does not include the motor vehicle rental or leasing company itself.
 - (4) *Recorded image*: Photographs, microphotographs, micrographs, videotape, computerized digital images, or other recorded images of motor vehicles entering an intersection in violation of red traffic signal indications or otherwise violating the city traffic code.
 - (5) *System location*: The approach to an intersection toward which an automated red light enforcement system is directed and in operation.
 - (6) *Traffic control signal*: A traffic control device that displays alternating red, yellow and green lights as intended to direct traffic when to stop at or proceed through an intersection.
- (b) Any automated red light enforcement system, or any device which is part thereof, that is installed or deployed on a street or highway in the City of Gladstone shall meet any applicable requirements established by the State of Missouri.
 - (c) The installation of an automated red light enforcement system in the city by or under the supervision of the director of public works is hereby authorized. Devices which are part of the automated red light enforcement system may be installed at intersections or other locations identified by the ~~police~~public safety department as dangerous. Such installation is authorized where any contract for installation of, and operational and administrative tasks associated with the use of, one or more automated red light enforcement systems exist with the city.
 - (d) Probable cause. An officer employed by the ~~police division of the~~ Gladstone ~~Police~~Public Safety Department shall examine each recorded image to determine if a violation of the city traffic code has occurred. If the recorded image, or sequence of images, shows a violation, contains a date and time of the alleged violation, shows the vehicle's license plate number, as well as the state in which the license was issued, and the traffic control signal while it is emitting a steady red signal, the officer may use any lawful means to identify the vehicle's owner.
 - (e) Upon the filing of information in the Gladstone Municipal Court, a summons shall be issued, with a court date, pursuant to the Missouri Supreme Court Rules governing traffic violations. Not later than 60 days after the date the violation is alleged to have occurred, the summons shall be served on the owner by mailing it, together with:
 - (1) A copy of the violation notice; and
 - (2) A copy of the recorded image(s) of the alleged violation, which forms the basis of the information; and
 - (3) A copy of the supplemental violation notice as described in subparagraph a. of this subsection, to the owner's last known address by first class mail. If, however, the vehicle is registered in more than one person's name, the summons shall be issued to the first named registrant as reflected in the motor vehicle registration records of the Missouri Department of Revenue. The supplemental violation notice shall contain, at a minimum, the following information:

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- a. A statement that the recorded image will be submitted as evidence in the municipal court proceeding for prosecution of the violation of the applicable section of the city traffic code; and
 - b. That a violation notice and summons mailed under this section is presumed to have been received by the owner on the fifth day after the date the violation notice is mailed.
 - (f) Violations detected with the use of the automated traffic control signal enforcement system will be prosecuted in the Gladstone Municipal Court under the same procedures, as other violations prosecuted in municipal court.
 - (g) The images from the automated traffic control signal enforcement system and the records obtained from the Missouri Department of Revenue, shall be admissible before the municipal court and shall establish a rebuttable presumption that the registered owner of the motor vehicle is responsible for violation depicted in the images presented in court.
 - (h) An owner of a motor vehicle may avoid responsibility for the violation depicted in the images from the automated traffic control signal enforcement system by executing an affidavit, under oath, stating the name and current address of the person actually operating the motor vehicle at the time of the violation. An owner executing such an affidavit shall be subject to subpoena to testify before the municipal court against the person identified in the affidavit as the operator of the vehicle at the time of the violation.
 - (i) Every person convicted of a violation by failing to heed a traffic control signal as established by the automated traffic control signal enforcement system, shall be punished by a fine of up to \$100.00. Such a conviction is not intended to result in assessment of points or other penalties against the person's driving record, and such convictions will not be reported to the Missouri Department of Revenue as assessable violations or convictions.
 - (j) Any automated traffic control signal enforcement system on a street or highway must be identified by appropriate advance warning signs conspicuously posted either at the major roadways entering the city or not more than 300 feet from the location of the automated traffic control system location. All advance warning signs must be approved by the director of public works.

Section 300.155. Traffic control signal legend—Right turn on red light.

Whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

- a. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
- b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
- c. Unless otherwise directed by a pedestrian control signal, 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:

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- 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, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.
- (3) Steady red indication:
- a. Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain standing until a green indication is shown, except as provided in subsection (3)b of this section.
 - b. The driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red signal, may cautiously enter the intersection to make a right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that the state highways and transportation commission with reference to an intersection involving a state highway, and local authorities with reference to an intersection involving other highways under their jurisdiction, may prohibit any such right turn against a red signal at any intersection where safety conditions so require, said prohibition shall be effective when a sign is erected at such intersection giving notice thereof.
 - c. Unless otherwise directed by a pedestrian control signal pedestrians facing a steady red signal alone shall not enter the roadway.
- (4) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or making the stop shall be made at the signal.

State law reference(s)—Similar provisions, RSMo 300.155.

Section 300.160. 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 crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

State law reference(s)—Similar provisions, RSMo 300.160.

Section 300.191. Driving in public parks.

No person shall, without the consent of the city manager ~~and/or his/her designee, the chief of police director of public safety,~~ city engineer or parks and recreation advisory board, operate any motor vehicle in or upon any public park, playground or other public property other than upon a regularly constructed, maintained or designated street, roadway or driveway.

Section 300.192. Street barricades.

It shall be unlawful for any person to drive upon any street under construction or repair, where any barricade, sign, or flagman or workman designates or gives notice that such street or portion of street is closed.

Section 300.206. Speed laws.

- (a) *Speed restrictions generally.* No person shall drive or operate a vehicle upon a street at a speed greater than is reasonable and prudent, having due regard to the traffic, surface and width of the street, and the hazard at intersections and any other conditions then existing. Every driver or operator of a vehicle shall exercise the highest degree of care, particularly in driving at a rate of speed so as not to endanger the life, limb or property of any person; provided that this provision shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence upon the part of the defendant and that such negligence is the proximate cause of an accident.
- (b) *Basic speed limits.* No person shall drive or operate any motor vehicle at a speed in excess of the following speed limits:
 - (1) The speed on any street or highway, except permanent interstate highways, in the city shall not exceed 25 miles per hour, both daytime and nighttime, whether so posted or not, unless otherwise posted.
 - (2) The speed upon approaching within 50 feet of and traversing any uncontrolled intersection shall not exceed 20 miles per hour.
 - (3) The speed upon the following streets, when so posted by signs placed at intervals, shall not exceed 35 miles per hour: See schedule VI, which is on file in the office of the city clerk.
 - (4) The speed upon the following streets, when so posted by signs placed at intervals, shall not exceed 45 miles per hour: See schedule VII, which is on file in the office of the city clerk.
 - (5) The speed upon or within any school speed zone, when so designated and posted as such, shall be 15 miles per hour between the hours of 7:30 a.m. to 5:30 p.m. on Monday through Friday of each week during which such school may be open for pupil attendance.
 - (6) The speed limit laws of the state shall be applicable within the city except where otherwise provided in this section.

State law reference(s)—Authority of cities to enact speed regulations, RSMo 304.120.

Section 300.211. Speed too slow.

- (a) 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. Peace 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 herewith, the continued slow operation by a driver is a misdemeanor.
- (b) Any vehicle which is or shall become disabled or defective shall be, as soon as reasonably possible, driven or removed from any through street or other street where it is impeding or obstructing traffic.

State law reference(s)—Similar provisions, RSMo 304.011(1).

Section 300.215. Required position and method of turning at intersection.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the 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

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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-road 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.

State law reference(s)—Similar provisions, RSMo 300.215.

Section 300.216. Right-of-way in making turns.

- (a) A driver making a right turn shall yield the right-of-way to other vehicles already within such intersection which constitute an immediate hazard and to any pedestrian in the crosswalk or crossing at the intersection.
- (b) 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.

State law reference(s)—Right-of-way at intersection, RSMo 304.351.

Section 300.217. Turning and stopping 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 manner provided in this section.
 - (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 operator's arm 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 operator's arm 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 operator's arm may be seen in the rear of the vehicle, and shall slow down and approach the intersecting highway so that the left side of the vehicle shall be as near as practicable to the centerline of the highway along which the operator is proceeding before turning;
 - (4) The signals required in 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;

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however, when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle then such signals shall be given by such light or device. A vehicle shall be considered as so constructed or loaded that a hand and arm signal would not be visible both to the front and rear when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereon exceeds 14 feet, which limit of 14 feet shall apply to single vehicles or combinations of vehicles. The provisions of this subsection shall not apply to any trailer which does not interfere with a clear view of the hand signals of the operator or of the signaling device upon the vehicle pulling such trailer; provided further that the provisions of this section as far as mechanical devices on vehicles so constructed that a hand and arm signal would not be visible both to the front and rear of such vehicle as above provided shall only be applicable to new vehicles registered within this state after January 1, 1954.

- (b) Nothing in this section shall prevent the making of an emergency stop or turn in order to attempt to avoid a collision where there is not sufficient time to give such signal.
- (c) If such turn is to be made from a stopped position, then such signal must be given prior to proceeding for such duration as to be a warning to other traffic.

State law reference(s)—Similar provisions, RSMo 304.019.

Section 300.220. Authority to place and obedience to turning markers.

- (a) The city traffic engineer is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as 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.

State law reference(s)—Similar provisions, RSMo 300.220.

Section 300.225. Authority to place restricted turn signs.

The city traffic engineer is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right 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 the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

State law reference(s)—Similar provisions, RSMo 300.225.

Section 300.230. Obedience to no-turn signs.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

State law reference(s)—Similar provisions, RSMo 300.230.

Section 300.235. Limitations on turning around.

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

State law reference(s)—Similar provisions, RSMo 300.235.

Section 300.240. Authority to sign one-way streets and alleys.

Whenever any ordinance of the city designates any one-way street or alley the city traffic engineer shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

State law reference(s)—Similar provisions, RSMo 300.240.

Section 300.245. Movement of traffic on one-way streets and alleys.

Upon those streets and parts of streets and in those alleys described and designated by ordinance, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

State law reference(s)—Similar provisions, RSMo 300.245.

Section 300.250. Authority to restrict direction of movement on streets during certain periods.

- (a) The city traffic 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 traffic engineer may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway.
- (b) It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this section.

State law reference(s)—Similar provisions, RSMo 300.250.

Section 300.255. 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 the traffic code.

State law reference(s)—Similar provisions, RSMo 300.255.

Section 300.260. Signs required at through streets.

Whenever any ordinance of the city designates and describes a through street, it shall be the duty of the city traffic engineer to place and maintain a stop sign, or on the basis of an engineering and traffic investigation at any intersection a yield sign, on each and every street intersecting such through street unless traffic at any such intersection is controlled at all times by traffic control signals; provided, however, that at the intersection of two such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of said streets as may be determined by the city traffic engineer upon the basis of an engineering and traffic study.

State law reference(s)—Similar provisions, RSMo 300.260.

Section 300.265. Other intersections where stop or yield required.

The city traffic engineer is hereby authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine whether vehicles shall stop at one or more entrances to any such intersection, in which event the traffic engineer shall cause to be erected a stop sign at every such place where a stop is required, or whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection as prescribed in section 300.280, in which event the traffic engineer shall cause to be erected a yield sign at every place where obedience thereto is required.

State law reference(s)—Similar provisions, RSMo 300.265.

Section 300.270. Stop and yield signs.

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- (a) The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersection roadway.
- (b) Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersection roadway before entering the intersection.

State law reference(s)—Similar provisions, RSMo 300.270.

Section 300.275. Vehicle entering stop intersection.

Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop, and after having stopped, shall yield the right-of-way to any vehicle which has entered the intersection from another roadway or which is approaching so closely on said roadway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

State law reference(s)—Similar provisions, RSMo 300.275.

Section 300.280. Vehicle entering yield intersection.

The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection; provided, however, that if such a driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of the such driver's failure to yield right-of-way.

State law reference(s)—Similar provisions, RSMo 300.280.

Section 300.285. Emerging from alley, driveway or building.

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

State law reference(s)—Similar provisions, RSMo 300.285.

Section 300.290. 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 such person is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

State law reference(s)—Similar provisions, RSMo 300.290.

Section 300.291. School stop signs.

Every person operating a motor vehicle on the streets of the city shall stop in compliance with any permanent or temporary school stop sign placed at or in the roadway before entering the cross walk or, if none, at the stop sign, and shall yield to all persons at or approaching the pedestrian crossing.

Section 300.296. Right-of-way at uncontrolled intersections.

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- (a) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway, provided, however, there is no form of traffic control at such intersection.
 - (b) When two vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. This subsection shall not apply to vehicles approaching each other from opposite directions when the driver of one of such vehicles is attempting to or is making a left turn.

Section 300.297. Right-of-way at four-way stop intersections.

When two or more vehicles traveling on intersecting streets are both required to stop in compliance with stop signs, the driver of the vehicle that stops first shall have the first right to proceed if the driver can do so safely.

Section 300.300. 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.

State law reference(s)—Similar provisions, RSMo 300.300.

Section 300.326. When permits required for parades and processions.

- (a) No funeral or other procession or parade containing 50 or more persons or ten or more vehicles, except the armed forces of the United States, the military forces of this state and the forces of the ~~department of public safety~~ ~~police and fire department~~, shall occupy, march or proceed along any street, except in accordance with a permit issued by the ~~director of public safety~~ ~~Chief of Police~~ and such other regulations as are set forth in the traffic code which may apply.
- (b) Nothing in this section shall prevent the ~~department of public safety~~ ~~police department~~ from disbanding any parade or procession, regardless of size, which unnecessarily impedes traffic or is or becomes disorderly, riotous or otherwise unlawful.

State law reference(s)—Permits for parades and processions, RSMo 300.325.

Section 300.327. Defective motor vehicles.

- (a) It shall be unlawful for any person to operate upon any street any motor vehicle which is in such defective mechanical condition as to be reasonably likely, because of such mechanical condition, to cause injury or damage to any person or property.
- (b) Muffler cutouts shall not be used and no vehicle shall be driven 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) No person operating a motor vehicle shall permit or operate the motor vehicle in such a manner as to emit an unduly great amount of steam, smoke, flame or other product of combustion.
- (d) No person shall operate or knowingly ride in any motor vehicle which is not equipped with operable and adequate headlights, taillights, other required light, mirrors, brakes, safety glass, horns or other warning devices and/or reflectors as required by RSMo 307.010 et seq., for the equipping or operation of such motor vehicles upon the public streets of this state.

State law reference(s)—Motor vehicle equipment, RSMo 307.170.

Section 300.328. Lights, when required.

- (a) 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 required in RSMo ch. 307. 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.
- (b) 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.

State law reference(s)—Lights required, RSMo 307.040; dimming of lights, RSMo 307.070.

Section 300.329. Vision-reducing materials.

No person shall operate any motor vehicle on any public highway or street of this city with any manufactured vision-reducing material applied to any portion of the motor vehicle's windshield which reduces visibility from within or without the motor vehicle; except that any person may operate a motor vehicle with side and rear windows that have 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.

State law reference(s)—Sunscreening device applied to windshield or windows, RSMo 307.173.

Section 300.331. Projecting objects.

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 the traffic code, 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.

State law reference(s)—Similar provisions, RSMo 307.170(5).

Section 300.332. Towing vehicles and trailers.

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 section shall not apply to wreckers towing vehicles or to vehicles secured to the towing vehicle by a fifth-wheel type connection.

State law reference(s)—Similar provisions, RSMo 307.170(6).

Section 300.346. Motorcycles.

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- (a) It shall be unlawful for any person to operate or use upon any street or public property in the city any motor scooter, motorcycle or motorbike unless the such motor scooter, motorcycle or motorbike be equipped with operable brakes sufficient to stop the motor scooter, motorcycle or motorbike within 35 feet at a speed of 20 miles per hour, adequate springs and shock absorbers, a speedometer (if available for such scooter or motorcycle or bike) and at least one approved headlamp and red taillight, but no more than two each such lights.
- (b) It shall be unlawful to operate any motorcycle without first having obtained and having in such operator's possession a valid state operator's or driver's license authorizing the operation of such motorcycle, and it shall be unlawful for any person to rent, lend or lease any motorcycle to any person without first determining that such borrower, renter or lessee shall have been issued a valid operator's license authorizing such person to operate such motorcycle.
- (c) It shall be unlawful for any person to operate or occupy as a passenger any motorcycle, motor scooter or motor bike upon any public street, alley, sidewalk or other thoroughfare or in any public park within the city unless such person is wearing, upon such person's head, a type of safety helmet or headgear the minimum protective standards for which shall be determined by the ~~Chief of Police~~~~director of public safety~~. The ~~director of public safety~~~~Chief of Police~~ in determining such minimum protective standards for safety helmets or headgear may use the American Standards Association specifications for protective headgear for vehicular users as approved by the American Standards Association now in effect or as hereafter amended by such association, and shall conform to RSMo 302.020. The minimum protective standard specifications shall be currently maintained by the ~~Chief of Police~~~~director of public safety~~ and made available at all times for public inspection.
- (d) It shall be unlawful for anyone to rent, lease or lend any motorcycle, motor scooter or motor bike to any person without first ascertaining that such person or passenger is equipped with a safety helmet or headgear the minimum standards for which have been determined by the ~~Chief of Police~~~~director of public safety~~ as provided for in subsection (c) of this section. If such person is not so equipped, such person shall provide such safety helmet or headgear before renting, leasing or lending any motorcycle, motor scooter or motorbike to such person.
- (e) No person shall ride on or allow anyone to ride on any motorcycle, motor scooter or motorbike as a passenger unless such motorcycle, motor scooter or motor bike is equipped with hand grips and footrests for such passenger.

State law reference(s)—Riding on motorcycles, RSMo 300.345.

Section 300.348. Bicycles and motorized bicycles.

- (a) *Rights and duties of bicycle and motorized bicycle riders.* Every person riding a bicycle or motorized bicycle upon a street or highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle as provided by the traffic code and RSMo ch. 304, except as to special regulations in RSMo 307.180—307.193 and except as to those provisions of RSMo ch. 304 which by their nature can have no application.
- (b) *Lights and reflectors on bicycles.* Every bicycle and motorized bicycle when in use on a street or highway during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with the following:
- (1) A front-facing lamp on the front or carried by the rider which shall emit a white light visible at night under normal atmospheric conditions on a straight, level, unlighted roadway at 500 feet;
 - (2) A rear-facing red reflector, at least two square inches in reflective surface area, or a rear-facing red lamp, on the rear, which shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lower beams of vehicle headlights at 600 feet;

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- (3) Reflective material and/or lights on any part of the bicyclist's pedals, crank arms, shoes or lower leg, visible from the front and the rear at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at 200 feet; and
 - (4) Reflective material and/or lights visible on each side of the bicycle or bicyclist and visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at 300 feet. The provisions of this subsection shall not apply to motorized bicycles which comply with National Highway Traffic and Safety Administration regulations relating to reflectors on motorized bicycles.

State law reference(s)—Similar provisions, RSMo 307.185, 307.188.

Section 300.348A. All-terrain vehicles.

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

All-terrain vehicle means all three- and four-wheel vehicles primarily for use over terrain other than paved streets.

License means the state motor vehicle license required to operate motor vehicle on a public street or highway.

- (b) *Prohibitions; exceptions.*

- (1) No person shall operate an all-terrain vehicle, as defined in RSMo 300.010, upon the streets and highways of the city, except as follows:
 - a. All-terrain vehicles owned and operated by a governmental entity for official use;
 - b. All-terrain vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation;
 - c. All-terrain vehicles the operators of which carry a special permit issued by the city pursuant to RSMo 304.013.
- (2) No person shall operate an off-road vehicle, as defined in RSMo 304.001, within any stream or river in the 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 peace officers of this state and its political subdivisions shall enforce the provisions of this subsection within the geographic area of their jurisdiction.
- (3) A person operating an all-terrain 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. When operated on a street or highway, an all-terrain vehicle shall have a bicycle safety flag, which extends not less than seven feet above the ground, attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be day-glow in color.
- (4) No person shall operate an all-terrain vehicle:
 - a. In any careless way so as to endanger the person or property of another;
 - b. While under the influence of alcohol or any controlled substance; or

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- c. Without a securely fastened safety helmet on the head of an individual who operates an all-terrain vehicle or who is being towed or otherwise propelled by an all-terrain vehicle, unless the individual is at least 18 years of age.

(5) No operator of an all-terrain vehicle shall carry a passenger, except for agricultural purposes.

- (c) *Violation; penalties.* Every person convicted of a violation of any provision of this section shall be punished by a fine of not more than \$500.00, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

State law reference(s)—All-terrain vehicles, RSMo 300.348.

Section 300.349. Operation of miniature motorcycles, go-carts, and motorized scooters prohibited.

- (a) For purposes of this section, miniature motorcycles, go-carts, and motorized scooters are defined as those motor-driven vehicles that are not capable of being registered and licensed as motor vehicles under the laws of the state, are capable of transporting one or more persons at a speed of greater than five miles per hour, and have a seat for a rider that is 18 inches or less above the ground, as measured from the lowest point of the upper surface of the seat or saddle.
- (b) No person shall operate a miniature motorcycle, go-cart, or motorized scooter, as defined under this section, on the streets, sidewalks, trails, parklands, public parking lots, public rights-of-way, or other public property within the city.
- (c) This section shall not apply to any wheelchair, or electric-powered device utilized for transportation by a disabled person, or electric-powered devices that are self-balancing and designed to transport only one person.
- (d) Violations of this section are punishable by a fine of not more than \$500.00.

Section 300.350. Riding bicycles, sleds, roller skates, by attaching to another vehicle prohibited.

No person riding upon any bicycle, motorized bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself/herself to any vehicle upon a roadway. Neither shall the driver of a vehicle knowingly pull a rider behind a vehicle.

State law reference(s)—Similar provisions, RSMo 300.350.

Section 300.351. Riding outside vehicle or motorcycle seat.

- (a) No operator shall allow, and no person shall ride upon the handlebar, frame or tank of any motorcycle or motor scooter, nor shall any person operate or ride upon such motorcycle or motor scooter while in a standing or sidesaddle position.
- (b) No operator of a motor vehicle shall allow, and no person shall ride upon any running board, fender, hood, top or trunk of any moving motor vehicle upon any street or alley or with any portion of the person's body protruding from the bed of any truck.
- (c) No person shall cause or allow any animal to be carried or transported upon the outside of any vehicle, except in the bed of any truck, unless such animal shall be securely prevented from falling or jumping off such moving vehicle by means of some framework, cage or other device.

Section 300.352. Obstructing driver's view.

- (a) No person shall operate any motor vehicle upon any street when the vehicle is so loaded with passengers or property as to obstruct or interfere with the driver's view or control of such vehicle, and it shall be unlawful for any passenger to obstruct the view of or to interfere with the driver in control of such vehicle.

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- (b) No person shall operate any motor vehicle when their view ahead, to the rear or to either side is obstructed by dirt, defective glass, stickers, fog, moisture, frost, snow or any other item whatsoever, or by rain or snow, be cause of the lack of an adequate operable windshield wiper or the failure to have such wiper in operation.

Section 300.366. Careless driving.

Any person who drives any vehicle upon a street carelessly and heedlessly, in disregard of the rights or safety of others, or without due caution and circumspection, or at a speed and in a manner so as to endanger or to be likely to endanger any person or property, shall be guilty of careless driving and shall be in violation of the traffic code.

Section 300.367. Driving under the influence of intoxicating liquor or drugs.

- (a) No person shall drive, operate or be in actual physical control of any vehicle while under the influence of intoxicating liquor, nonintoxicating beer or drugs.
- (b) Every person convicted of violating this section shall be punished as provided in section 1.100.140 of the Gladstone City Code.

Section 300.367A. Driving with blood alcohol content of eight-hundredths of one percent or more by weight.

- (a) No person shall drive a motor vehicle when such person has eight-hundredths of one percent or more by weight of alcohol in such person's 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 such person's blood, breath, saliva or urine.
- (b) Every person convicted of violating this section shall be punished as provided in section 1.100.140 of the Gladstone City Code.

State law reference(s)—Driving with excessive blood alcohol content, RSMo 577.012.

Section 300.368. Following too closely.

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 outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated, except in a funeral procession or in a duly authorized parade, so as to allow sufficient space between each such vehicle or combination of vehicles as to enable any other vehicle to overtake or pass such vehicles in safety. This section shall in no manner affect RSMo 304.044 relating to distance between trucks traveling on the highway.

Section 300.369. Drive on right side of road and passing regulations.

- (a) Upon all public roads or highways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:
- (1) When overtaking and passing another vehicle proceeding in the same direction pursuant to the rules governing such movement.
 - (2) When placing a vehicle in position for and when such vehicle is lawfully making a left turn in compliance with the provisions of RSMo 304.014—304.026 or traffic regulations thereunder or of municipalities.
 - (3) When the right half of a roadway is closed to traffic while under construction or repair.
 - (4) Upon a roadway designated by local ordinance as a one-way street and marked or signed for one-way traffic.
- (b) 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:

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- (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.
- (c) 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.

State law reference(s)—Similar provisions, RSMo 304.015(2), 304.016(1), (2).

Section 300.370. Pedestrians subject to traffic control devices.

Pedestrians shall be subject to traffic control signals as provided in the traffic code, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in sections 300.375—300.405.

State law reference(s)—Similar provisions, RSMo 300.370.

Section 300.375. 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 300.390(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.

State law reference(s)—Similar provisions, RSMo 300.375.

Section 300.380. Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

State law reference(s)—Similar provisions, RSMo 300.380.

Section 300.385. 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.

State law reference(s)—Similar provisions, RSMo 300.385.

Section 300.390. 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.

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- (b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
 - (c) The foregoing rules in this section have no application under the conditions stated in section 300.395 when pedestrians are prohibited from crossing at certain designated places.

State law reference(s)—Similar provisions, RSMo 300.390.

Section 300.395. Prohibited crossing.

- (a) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.
- (b) No pedestrian shall cross a roadway other than in a crosswalk in any business district.
- (c) No pedestrian shall cross a roadway other than in a crosswalk upon any street designated by ordinance.
- (d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

State law reference(s)—Similar provisions, RSMo 300.395.

Section 300.400. Obedience of pedestrians to bridge and railroad signals.

- (a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier after a bridge operation signal indication has been given.
- (b) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

State law reference(s)—Similar provisions, RSMo 300.400.

Section 300.405. Pedestrians walking along roadways.

- (a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.
- (b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

State law reference(s)—Similar provisions, RSMo 300.405.

Section 300.410. Drivers to exercise highest degree of care.

Notwithstanding the foregoing provisions of sections 300.155—300.410, every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

State law reference(s)—Similar provisions, RSMo 300.410.

Section 300.436. Manner of leaving parked motor vehicle.

- (a) Every person parking a motor vehicle on any street, alley, public property or public right-of-way shall remove and take with them the ignition key thereof. Any ~~public safety~~police officer finding such key shall remove such key and cause it to be forthwith deposited at police headquarters for safekeeping, but such officer shall leave a notice of such removal and safekeeping in a conspicuous place in or upon such vehicle.
- (b) Every person having control or charge of any standing or parked vehicle shall, before leaving it unattended upon any street or public right-of-way, set the brakes and stop the motor thereof, and if it is left upon other

than a substantially level street, the wheels thereof shall be turned to the curb or side of such street or roadway.

Section 300.441. Park on right side of the road.

No person shall stop, stand or park any vehicle upon the left side of any roadway; except when necessary to avoid collision, or when actually loading or unloading any burdensome or heavy freight, merchandise or personal property, or in compliance with the direction of any ~~public safety~~police officer or traffic control device, or upon a one-way street.

Section 300.442. Parking in fire lane.

(a) *Prohibited.*

- (1) It shall be unlawful for any person to park or permit any vehicle to stand in any area designated as a fire lane unless such person operates a vehicle otherwise lawfully authorized to be parked in such area.
- (2) It shall be unlawful for any person to permit any vehicle to block access to any fire lane properly marked as a fire lane or block access in any manner to any ramp, entrance, or area designated for fire access or use.

(b) *Enforcement.*

- (1) The violations set forth in subsection (a) of this section shall be applied whether such violations occur on public or private property so long as the fire lane is appropriately marked as a fire lane. ~~Public safety~~Police officers are empowered to enter upon private property open to public use to enforce the provisions of subsection (a) of this section.
- (2) The registered owner of any motor vehicle found to be illegally parked in violation of subsection (a) of this section shall be deemed responsible for such violation. The presumption shall be rebuttable.

- (c) *Penalty for violation.* Every person convicted of a violation of any provision of subsection (a) of this section shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Section 300.456. Selling from parked vehicles.

No person shall stand or park any vehicle upon any street, alley, public property or public right-of-way for more than ten minutes for the purpose of selling or offering for sale any fruit, vegetables, poultry, game, meat or other foodstuff, flowers or other merchandise, except while actually making a delivery; provided further that upon any through street no parking or standing for any time whatsoever shall be permitted for such purposes, except actual deliveries.

Section 300.457. Parking for purpose of displaying vehicle for sale.

- (a) No one with an ownership interest in a motor vehicle, trailer, or boat shall park, or allow to be parked such motor vehicle, trailer or boat on public property or private property zoned C-O, CP-O, C-1, CP-1, C-2, CP-2, C-3, CP-3, M-1, or MP-1 within view of a public street for the purpose of selling or advertising for sale, such motor vehicle, trailer, or boat.
- (b) Subsection (a) of this section shall not apply if the person with an ownership interest in the motor vehicle, trailer or boat is the owner of such property, has the written permission of the owner to use the property for the purpose of selling, or has a valid occupation license from the city for the sale of motor vehicles, trailers, or boats, and such occupation license designates the premises involved as the business location.
- (c) The fact that a "For Sale" sign, telephone numbers, or other advertising appears on the motor vehicle, trailer, or boat shall be prima facie evidence that the motor vehicle is parked for the purpose of sale.

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- (d) Whether or not permission has been given to park on the property is an affirmative defense, and the burden of proof is met by the showing of written permission.
 - (e) For the purposes of this section, a motor vehicle shall include all vehicles, regardless of the number of wheels, that are powered by a motor and are used for transporting one or more persons from place to place.
 - (f) For the purposes of this section, if a motor vehicle, boat, or trailer has remained on commercial or manufacturing zoned properties for a period of more than eight hours, this shall be prima facie evidence that it was not parked for the purpose of using other facilities on the premises. However, other evidence may be used to establish it was not parked primarily for this purpose and it is not necessary that it was parked for a time exceeding eight hours.
 - (g) Any person who is convicted of a violation of this section may be fined not more than \$500.00 or imprisoned for a period not more 90 days, or both such fine and imprisonment. Every day upon which such violation occurs shall constitute a separate offense.

State law reference(s)—Parking on roadway for purpose of displaying vehicle for sale, RSMo 300.455(1).

Section 300.501. Overnight parking of trucks.

No vehicle designed or regularly used for carrying freight, merchandise, materials or more than eight passengers, with the exception of trucks in the half-ton pickup class or smaller, shall be caused or allowed by any person to stand or park on any street between the hours of 3:00 p.m. in the evening to 8:00 a.m. of the following day; except when an actual delivery is being made from such vehicle and provided there is displayed upon the windshield of such vehicle a sign declaring that such delivery is in progress. No notice or sign reflecting such prohibition shall be required to be posted notwithstanding any other provision of the traffic code.

Section 300.505. Unauthorized parking of commercial vehicles on commercial property prohibited where posted.

- (a) The unauthorized parking of any automobile, van, truck and/or trailer or any other vehicle licensed or utilized for commercial purposes is prohibited on any commercial property within the city, where the owner of such commercial property has posted signs stating that no parking shall be permitted. Such signs may designate a specific time period during the day or night when such parking is prohibited. If no specific time period is designated on such signs, then such parking shall be prohibited at all times during the day or night.
- (b) The fact that a vehicle subject to this section is located on commercial property that has been posted during the period of time in which parking is prohibited shall be deemed a violation of this section, unless such vehicle is owned by the owner of the commercial property or business located on the property, is on the premises for the purpose of making or receiving deliveries at businesses located on the property, or unless such vehicle has a prominently displayed sign, provided by the owner of the commercial property or business located on such property, authorizing the parking of the vehicle on the premises. Such authorizing sign shall be displayed in the front windshield of the vehicle, or in another prominent place on the vehicle if the vehicle has no front windshield.
- (c) By virtue of the posting of such commercial property, the property owner, or owner of a business located on such property, consents to the entry upon such property by a police officer for the purposes of enforcing this section.

Section 300.551. Commercial vehicles prohibited on certain streets.

- (a) It shall be unlawful for any person to operate or cause to be operated any commercial vehicle upon any street within the city, except:
 - (1) Upon North Oak Street Trafficway, Antioch Road, 72nd;
 - (2) Upon any four-lane freeway or highway;

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- (3) When traveling in the most direct route to or from making a pickup or delivery upon any other street; or
 - (4) When traveling in the most direct route to or from the home or place of business or employment of the operator thereof.
- (b) No notice or signs reflecting this prohibition shall be required to be posted, notwithstanding any provision of the traffic code.

State law reference(s)—Commercial vehicles prohibited from using certain streets, RSMo 300.550.

Section 300.552. Trucks.

- (a) *Weight restrictions.* No vehicle or combination of vehicles shall move or be operated on any street, highway or alley in the city having a greater weight than that prescribed in RSMo 304.180, as modified by RSMo 304.190, and any amendments thereto.
- (b) *Width and length restrictions.* No vehicle or combination of vehicles shall move or be operated on any street, highway or alley in the city which is of a width, height or length which is in violation of RSMo 304.170.
- (c) *Incorporation of statutes.* The applicable statutes shall be incorporated in this section.
- (d) *Special permits.* The city manager may issue a special permit for any vehicle exceeding the width, length, height or weight specified in this section, when, in the city manager's opinion, the public safety or public interest so justifies, and such permit shall be limited as to duration, not exceeding the expiration of the registration of such vehicle, and may designate the street or streets upon which such permit may be valid.
- (e) *Reduction of maximum weight.* Whenever by reason of thawing of frost, or rains, or due to new construction, the streets are in a soft condition, the city manager shall consult with the state highway commission and request that the weights prescribed for vehicles be modified so as to protect such streets. The city manager shall list such streets and roads in a request to the state highway commission and shall recommend the maximum weight allowable on such streets and roads. The city manager shall cooperate with the commission in giving notice, in the event the maximum weights are reduced, by posting notices at convenient and public places along the road or roads subject to the state highway commission's regulations and reduction of weights. No person shall move or operate any vehicle weighing in excess of the limits established upon streets so posted.
- (f) *Enforcement.* Any ~~police~~~~public safety~~ officer of this city may arrest on sight or upon a warrant any person found violating any of the provisions of this section or of RSMo 304.170—304.230. The ~~police~~~~public safety~~ officers of this city may stop any vehicle as described in this section traveling upon the public highways of this city for the purpose of determining whether or not such vehicle is loaded in excess of the provisions of this section, and may require such truck to be removed to the nearest available scales for the purpose of weighing such truck and load. In addition to issuing a summons to or arresting any person violating this section, the ~~police~~~~public safety~~ officer shall notify the state highway patrol of the violation of any state statute.
- (g) *Littering on street or alley.* Notwithstanding any provision contained in this section, it shall be unlawful for any person to operate any vehicle which is loaded in such a manner that any part of the load is likely to fall upon or litter any street or alley.

Section 300.591. Operator's and chauffeurs' licenses.

- (a) No person shall operate any motor vehicle upon any street or public property without having been issued and having in the operator's possession a current, valid and effective operator's, driver's, chauffeur's, or motorcycle operator's license or driving permit, authorizing such operation of such motor vehicle, in compliance with and as required by RSMo ch. 302.

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- (b) No person shall knowingly cause or allow any person to operate any motor vehicle in violation of subsection (a) of this section, and no person shall knowingly ride in any motor vehicle when the operator thereof is not so licensed.
- (c) No person shall use, display as such person's, or have in such person's possession claiming as such person's own any driver's or operator's license or permit not lawfully issued to the person or use, display or have in such person's possession any license or permit which has been altered, cancelled, revoked, suspended or forged; and no person shall lend, give away, transfer or sell the person's own such license or permit knowing that the borrower, donee or transferee thereof intends to use such license or permit as the person's own. Any ~~police~~~~public safety~~ officer is authorized to seize, retain or confiscate any such license or permit.

Section 300.592. Automobile registration and license.

- (a) No person shall operate or cause or allow to be parked any vehicle or trailer on any street or public property of the city without having displayed thereon a current and valid and effective license plate, vehicle or trailer registration, sign or temporary permit issued to the owner of such vehicle or trailer for such vehicle or trailer as may be required by RSMo ch. 301, or by the law of any other state, country, territory or other place, wherein such vehicle or trailer may be validly and legally registered or licensed.
- (b) No person shall use or display or cause or allow the use or display upon any vehicle or trailer which such person owns, or which such person is operating, or which such person has in such person's possession or under such person's immediate control, any such license plate, registration or permit not issued to such vehicle or trailer or legally authorized to be displayed thereon, nor have in such person's possession or use or display any such license plate, registration or permit which has been revoked, suspended or altered. Any ~~public safety~~~~police~~ officer is authorized to seize, retain or confiscate any such license plate, registration or permit.

Section 300.594. Registered owner prima facie liable.

If any vehicle is found upon a street in violation of any provision of the traffic code, the owner or person in whole name such vehicle is registered in the records of any city, county, state, territory or country shall be held prima facie responsible for such violation if the driver thereof is not present.

Section 304.079. Handicapped parking.

- (a) *Parking in handicapped spaces prohibited.*
- (1) It shall be unlawful for any person to park or permit any person to remain in any parking space properly marked as reserved for the handicapped unless such vehicle shall display a distinguishing license plate, placard or sticker.
 - (2) It shall be unlawful for any person to permit any vehicle to block access to any parking space properly marked as reserved for the handicapped or block access in any manner to any ramp, entrance, or stall designated for handicapped access or use.
- (b) *Enforcement.*
- (1) The violations detailed in subsection (a) of this section shall be applicable whether such violations occur on public or private property so long as the spaces are appropriately marked as handicapped spaces. ~~Police~~~~public safety~~ officers are empowered to enter upon private property open to public use to enforce the provisions of this section.
 - (2) The registered owner of any motor vehicle found to be illegally parked in violation of subsection (a) of this section shall be deemed responsible for such violation. The presumption shall be rebuttable.
- (c) *Penalty.* Every person convicted of a violation of any provision of this section shall be punished by a fine of not more than \$200.00 or less than \$50.00 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

State law reference(s)—Use of designated disabled parking spaces, RSMo 304.079.

Section 304.665. Operation of trucks with underage riders in unenclosed bed.

- (a) No person shall operate any truck with a licensed gross weight of less than 12,000 on any roadway within the city when any person under 18 years of age is riding in the unenclosed bed of such truck. No person under 18 years of age shall ride in the unenclosed bed of such truck when the truck is in operation.
- (b) The provisions of this section shall not apply to:
 - (1) An employee engaged in the necessary discharge of the employee's duties where it is necessary to ride in the unenclosed bed of the truck;
 - (2) Any person while engaged in agricultural activities where it is necessary to ride in the unenclosed bed of the truck;
 - (3) Any person riding in the unenclosed bed of a truck while such truck is being operated in a parade, caravan or exhibition which is authorized by law;
 - (4) Any person riding in the unenclosed bed of a truck if such truck has installed a means of preventing such person from being discharged or such person is secured to the truck in a manner which will prevent the person from being thrown, falling or jumping from the truck;
 - (5) Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purposes of participating in a special event and it is necessary that the person ride in such unenclosed bed due to a lack of available seating. The term "special event," for the purposes of this section, is a specific social activity of a definable duration which is participated in by the person riding in the unenclosed bed;
 - (6) Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purposes of providing assistance to, or ensuring the safety of, other persons engaged in a recreational activity; or
 - (7) Any person riding in the unenclosed bed of a truck if such truck is the only legally titled, licensed and insured vehicle owned by the family of the person riding in the unenclosed bed and there is insufficient room in the passenger cab of the truck to accommodate all passengers in such truck.

State law reference(s)—Riding in open truck bed, RSMo 304.665.

Section 304.667. Leaving child unattended in motor vehicle.

- (a) As used in this section, the following terms are defined as follows:

Collision means the act of a motor vehicle coming into contact with an object or a person.

Injury means physical harm to the body of a person.

Motor vehicle means any automobile, truck, truck-tractor, or any motorbus or motor-propelled vehicle not exclusively operated or driven on fixed rails or tracks.

Unattended means not accompanied by an individual 14 years of age or older.

- (b) A person commits the offense of leaving a child unattended in a motor vehicle:
 - (1) If such person is responsible for a child ten years of age or less and knowingly leaves such child unattended or unsupervised in a motor vehicle unless a person 14 years of age or older also is present in such motor vehicle; or
 - (2) If such person knowingly leaves a child ten years of age or less unattended or unsupervised in a motor vehicle and such child injures another person by causing a motor vehicle collision or by causing the motor vehicle to injure a pedestrian.

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- (c) City emergency services personnel who observe a child left unattended or unsupervised in a motor vehicle in violation of this section may use whatever means reasonable and necessary to protect such child and to remove such child from the motor vehicle.

State law reference(s)—Leaving child unattended in motor vehicle who causes an accident, RSMo 568.052.

Section 307.010. Loads which might become dislodged to be secured.

All motor vehicles, and every trailer and semitrailer operating upon the public highways of this state 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.

State law reference(s)—Similar provisions, RSMo 307.010.

Section 307.178. Seat belts required for passenger cars; passenger cars defined; exceptions penalty; passengers in car exceeding number of seat belts not violation for failure to use.

- (a) As used in this section, the term "passenger car" means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons; except that, the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles, and trucks with a licensed gross weight of 12,000 pounds or more.
- (b) Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or other roadway within the City of Gladstone, Missouri, and persons less than 18 years of age operating or riding in a truck, as defined in RSMo 301.010, on a street or other roadway within the City of Gladstone, Missouri, shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements. The provisions of this section and section 307.179 shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this section be applicable to persons while operating or riding a motor vehicle being used in agricultural work-related activities. Noncompliance with this subsection shall constitute probable cause for violation of any other provision of law. The provisions of this subsection shall not apply to the transporting of children under 16 years of age, as provided in section 307.179.
- (c) Each driver of a motor vehicle transporting a child less than 16 years of age shall secure the child in a properly adjusted and fastened restraint under section 307.179.
- (d) Except as otherwise provided for in section 307.179, each person who violates the provisions of subsection (b) of this section is guilty of an infraction for which a fine not to exceed \$50.00 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. In no case shall points be assessed against any person, pursuant to RSMo 302.302, for a violation of this section.
- (e) If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the passengers who are unable to wear seat belts shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front-seated area. The passenger or passengers occupying a seat location referred to in this subsection is not in violation of this section. This subsection shall not apply to passengers who are accompanying a driver of a motor vehicle who holds an intermediate license under section RSMo 302.178.

State law reference(s)—Passenger restraint system required for child under four years of age, RSMo 210.104; seat belts, RSMo 307.178.

Section 307.179. Definitions; transporting children under 16 years of age, restraint systems; penalty; exceptions; program of public information.

- (a) As used in this section, the following terms shall mean:
- (1) "Child booster seat", a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system;
 - (2) "Child passenger restraint system", a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system;
 - (3) "Driver", a person who is in actual physical control of a motor vehicle.
- (b) Every driver transporting a child under the age of sixteen 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. This subsection shall only apply to the use of a child passenger restraint system or vehicle safety belt for children less than 16 years of age being transported in a motor vehicle.
- (c) Any driver who violates subdivision (1), (2), or (3) of subsection (b) of this section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than \$50.00 and court costs. Any driver who violates subdivision (4) of subsection (b) of this section shall be subject to the penalty in subsection (d) of section 307.178. If a driver receives a citation for violating subdivision (1), (2), or (3) of subsection (b) of this section, the charges shall be dismissed or withdrawn if the driver prior to or at his or her hearing provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the court or the party responsible for prosecuting the driver's citation.
- (d) The provisions of this section shall not apply to any public carrier for hire. The provisions of this section shall not apply to students four years of age or older who are passengers on a school bus designed for carrying 11

passengers or more and which is manufactured or equipped pursuant to Missouri Minimum Standards for School Buses as school buses are defined in RSMo 301.010.

(Code 1974, §§ 18-14, 18-50—18-52, 18-54—18-56, 18-66—18-68, 27-8; Ord. No. 3.072, § 1, 4-27-1992; Ord. No. 3.448, § 1(18-69—18-71), 4-24-1995; Ord. No. 3.748, § 1, 4-10-2000; Ord. No. 3.807, § 1, 9-24-2001; Ord. No. 3.808, §§ I, II, 9-24-2001; Ord. No. 3.812, § 1(21-34), 11-12-2001; Ord. No. 3.873, §§ 1, 2, 6-9-2003; Ord. No. 3.937, §§ 1, 2, 12-13-2004; Ord. No. 3.938, § 1, 1-10-2005; Ord. No. 3.955, § 1, 5-9-2005; Ord. No. 3.966, § I, 9-12-2005; Ord. No. 4.035, § 1, 6-25-2007; Ord. No. 4.067, §§ 1, 2, 3-24-2008; Ord. No. 4.343, § 1, 3-14-2016)

CHAPTER 105. PROCEDURE UPON ARREST

Sec. 4.105.010. Acceptance of chauffeur's or operator's license in lieu of bail—Generally.

- (a) The traffic violations bureau clerk and officers of the city ~~public safety~~police department may, in their discretion, subject to the rules or policy adopted or promulgated by the ~~director of public safety~~Chief of Police, or the judge of the municipal court, if any, accept the deposit of the chauffeur's or operator's license issued by the state to any person arrested, charged or summoned to appear in the municipal court for a traffic violation in lieu of any other bail bond or security for such licensee's appearance in court to answer such charge.
- (b) Nothing in this section shall be deemed to deprive the judge or clerk of the municipal court from their power to require new or different bail or security or to establish other conditions of release under RSMo 544.455—544.665. The license acceptance procedure may be, in the discretion of the clerk or officer, used in authorized instances in lieu of any bail as established by the judge of the municipal court in any bail schedule unless specifically ordered otherwise.

(Code 1974, § 18-1)

State law reference(s)—Similar provisions, RSMo 544.045(1).

Sec. 4.105.020. Same—Receipt forms.

- (a) The city manager or the ~~director of public safety~~Chief of Police shall cause to be prepared and printed receipt forms, in at least duplicate, to be issued by the clerk or ~~public safety~~police officer to such arrested, charged or summoned person for such deposited license. One copy shall be delivered to such person and one copy, together with the named license, shall be annexed or attached to the complaint or traffic summons copies filed with the municipal court.
- (b) The receipt form shall first be approved by the director of revenue of the state. The receipt shall be accepted in lieu of the license as provided by RSMo 302.181, and the licensee may operate a motor vehicle while in possession of such receipt until the licensee has appeared at the proper time and place as stated in the receipt to answer the charge against such person.

(Code 1974, § 18-2)

State law reference(s)—Similar provisions, RSMo 544.045(3).

Sec. 4.105.030. Same—Failure to appear to answer charge, etc.

If the licensee fails to appear at the proper time and place stated in the receipt to answer the charge placed against the licensee, the clerk of the municipal court shall within ten days notify the director of revenue of the

state of the failure to appear. The judge of the court may issue a warrant for the licensee's arrest, and a charge of failure to appear may be filed and alleged against such licensee by the city attorney. If the licensee appears at a later time before the municipal court, the clerk shall so notify the state director of revenue of the final disposition of the charge.

(Code 1974, § 18-3)

State law reference(s)—Similar provisions, RSMo 544.045(4).

Sec. 4.105.040. Same—Continuance.

If a continuance is requested and granted, the licensee shall be given a new receipt for the licensee's license by the clerk or officer.

(Code 1974, § 18-4)

State law reference(s)—Similar provisions, RSMo 544.045(3).

Sec. 4.105.050. Same—When denied.

No license shall be accepted in lieu of bail where the licensee is charged with driving while intoxicated, driving while under the influence of intoxicating liquor or drugs, leaving the scene of a motor vehicle accident, driving when such licensee's license is suspended or revoked, or for any charge made because of a motor vehicle accident in which a death has occurred.

(Code 1974, § 18-5)

State law reference(s)—Similar provisions, RSMo 544.045(1).

CHAPTER 110. PARKING DURING SNOW EMERGENCIES

Sec. 4.110.010. 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:

City manager means the city manager or the city manager's duly appointed representative.

Roadway means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

Secondary streets means any streets which are not designated snow emergency routes.

Snow emergency routes means those streets designated as such in accordance with the provisions of this chapter.

Snow tires means any tires mounted on drive wheels of motor vehicles which are especially designed to give effective traction on snow, mud or ice covered streets by means of extra heavy-duty treads with special high-traction patterns; except that no tire so defined shall be construed to be a snow tire if it is damaged or worn to the extent that its performance would be substantially impaired.

Street or highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Tire chains means any metal chains mounted on drive wheel tires of motor vehicles which cross the tread of each such tire laterally in at least three different places.

(Code 1974, § 18-30)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 4.110.020. Parking on snow emergency routes.

- (a) Whenever the city manager finds, on the basis of falling snow, sleet or freezing rain, or on the basis of a forecast by the United States Weather Bureau of snow, sleet or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited or restricted for snow plowing and other purposes, the city manager shall put into effect a parking prohibition on parts of or all snow emergency routes as necessary by declaring it in a manner prescribed in this chapter.
- (b) Notwithstanding the provisions of subsection (a) of this section, a parking prohibition shall automatically go into effect on any part of any snow emergency route on which there has been an accumulation of snow and ice of two inches or more for one hour or more between 6:00 a.m. and 10:00 p.m. of any day.
- (c) Once in effect, a prohibition under this section shall remain in effect until terminated by announcement of the city manager in accordance with this chapter; except that any street area which has become substantially clear of snow and ice from curb to curb for the length of the entire block shall be automatically excluded therefrom. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a snow emergency route to which it applies. However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.

(Code 1974, § 18-31)

Sec. 4.110.030. Parking on secondary streets.

Whenever the city manager finds, on the basis of falling snow, sleet, freezing rain or on the basis of a forecast by the United States Weather Bureau or other weather service of snow, sleet or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited or restricted for snow plowing and other purposes, the city manager shall put into effect a parking prohibition on parts of or all secondary streets as necessary by declaring it in a manner prescribed by this chapter. Once in effect, the prohibition shall remain in effect until terminated by announcement of the city manager in accordance with this chapter. Parking shall be permitted only on the even-numbered sides of secondary streets during the time the prohibition is in effect. However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.

(Code 1974, § 18-32)

Sec. 4.110.040. Advancement of quitting-time traffic regulations.

Whenever the city manager finds, on the basis of falling snow, sleet or freezing rain, or on the basis of a forecast by the United States Weather Bureau of snow, sleet or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited; and whenever the city manager finds additionally that large numbers of employees within the city are to be dismissed from duty in advance of their normal quitting time because of weather conditions and that such dismissal will advance the beginning of heavy quitting time traffic, the city manager shall, by making a declaration in a manner prescribed by this chapter, appropriately advance the effective time of those traffic regulations which normally go into effect just before quitting time for the working day, for example (and not by way of limitation), those relating to standing, parking, one-way streets, unbalanced

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lanes and left turns. The regulations as so advanced in their operation shall remain in effect until their normal termination as may be indicated at specific locations. However, nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other section of this chapter.

(Code 1974, § 18-33)

Sec. 4.110.050. Operation of motor vehicles on snow emergency routes without snow tires or chains.

- (a) Whenever the city manager finds, on the basis of falling snow, sleet or freezing rain or on the basis of a forecast by the United States Weather Bureau of snow, sleet or freezing rain, that weather conditions may cause slippery or hazardous conditions which might lead to serious traffic congestion, the city manager may declare a traffic emergency, and no person operating a motor vehicle on a snow emergency route on which there is a covering of snow, sleet or ice shall allow such vehicle to become stalled wholly or partly because the drive wheels thereof are not equipped with effective tire chains or snow tires. Once in effect, the traffic emergency shall remain in effect until terminated by the city manager in accordance with this chapter.
- (b) Any police, fire, ambulance, civil defense, water, sewer, park and street department vehicles and any utility company vehicles making emergency calls and repairs are exempted from the provisions of this section.

(Code 1974, § 18-34)

Sec. 4.110.060. Stalled vehicles on snow emergency routes.

Whenever a vehicle becomes stalled for any reason, whether or not in violation of this chapter, on any part of a snow emergency route on which there is a covering of snow, sleet or ice or on which there is a parking prohibition in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of such snow emergency route onto the first cross street which is not a snow emergency route. No person shall abandon or leave the person's own vehicle in the roadway of a snow emergency route (regardless of whether such person indicates, by raising the hood or otherwise, that the vehicle is stalled), except for the purpose of securing assistance during the actual time necessary to go to a nearby telephone or to a nearby garage, gasoline station or other place of assistance and return without delay.

(Code 1974, § 18-35)

Sec. 4.110.070. Deposit of snow or ice in street or public way.

No person or persons engaged in the removal of snow or ice from driveways, parking lots or sidewalks shall deposit such snow or ice in the streets or any public way for vehicular or pedestrian traffic.

(Code 1974, § 18-36)

Sec. 4.110.080. Announcements required.

The city manager shall cause each declaration made pursuant to this chapter to be publicly announced by means of broadcasts or telecasts from a station with a normal operating range covering the city, and the city manager may cause such declaration to be further announced in newspapers of general circulation when feasible. Each announcement shall describe the action taken by the city manager, including the time it became or will become effective, and shall specify the streets or areas affected. A parking prohibition, advancement of quitting-time traffic regulations or traffic emergency declared by the city manager shall not go into effect until at least one

hour after it has been announced at least three times between 6:00 a.m. and 11:00 p.m., in accordance with this section.

(Code 1974, § 18-37)

Sec. 4.110.090. Termination of parking prohibition or traffic emergency.

Whenever the city manager shall find that some or all of the conditions which give rise to a parking prohibition or traffic emergency in effect pursuant to this chapter no longer exist, the city manager may declare the prohibition or emergency terminated, in whole or in part, in a manner prescribed by this chapter effective immediately upon announcement.

(Code 1974, § 18-38)

Sec. 4.110.100. Temporary provisions to take precedence over other ordinances; exceptions.

Any provision of this chapter which becomes effective by declaration of the city manager or upon the occurrence of certain weather conditions shall, while temporarily in effect, take precedence over other conflicting provisions of law normally in effect; except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles or emergency traffic directions by a police ~~public safety~~ officer.

(Code 1974, § 18-39)

Sec. 4.110.110. Designation of snow emergency routes by signs.

On each street designated by this chapter as a snow emergency route, the city manager shall post special signs at intervals not exceeding 500 feet with the wording: "Snow Emergency Route. No Parking During Emergency. Tow Away Zone." These signs shall be distinctive and uniform in appearance and shall be plainly readable to persons traveling on the street or highway.

(Code 1974, § 18-40)

Sec. 4.110.120. Removal, impounding and return of vehicles.

(a) ~~Officers~~Members of the ~~police~~public safety department are hereby authorized to remove or have removed a vehicle from a street to the nearest garage or other place of safety (including another place on a street), or to a garage designated or maintained by the ~~public safety~~police department or otherwise maintained by this city, when:

- (1) The vehicle is parked on a part of a snow emergency route on which a parking prohibition is in effect.
- (2) The vehicle is stalled on a part of a snow emergency route on which there is a covering of snow, sleet or ice or on which there is a parking prohibition in effect and the person who was operating such vehicle does not appear to be removing it in accordance with the provisions of this chapter.
- (3) The vehicle is parked in violation of any parking ordinance or provision of law and is interfering or about to interfere with snow removal operations.

(b) The removal, impounding and return of obstructing vehicles on snow emergency routes shall be by the ~~department of public safety~~police department in accordance with applicable ordinances pertaining thereto.

(Code 1974, § 18-41)

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Sec. 4.110.130. Citation on vehicle parked in violation of chapter.

Whenever any motor vehicle without a driver is found parked or left in violation of any provision of this chapter, and is not removed and impounded as provided for in this chapter, the officer finding such vehicle shall take its registration number and any other information displayed on the vehicle which may identify its user and shall conspicuously affix to such vehicle a traffic citation, on a form provided by the city manager, for the driver to answer to the charge against them within ten days during the hours and at a place specified in the citation.

(Code 1974, § 18-42)

Sec. 4.110.140. Failure to comply with citation.

If a violator of this chapter does not appear in response to a traffic citation affixed to such motor vehicle in accordance with this chapter within a period of ten days, the clerk of the traffic court or other appropriate person shall send the owner of the motor vehicle to which the traffic citation was affixed a letter informing such person of the violation and warning such person that in the event such letter is disregarded for a period of five days a warrant of arrest will be issued.

(Code 1974, § 18-43)

Sec. 4.110.150. Evidence of violation.

In any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provision of this chapter, proof that the particular vehicle described in the complaint was parked or left in violation of a provision of this chapter, together with proof that the defendant named in the complaint was at the time the registered owner of such vehicle, shall constitute prima facie evidence that the defendant was the person who parked or left the vehicle in violation of this chapter.

(Code 1974, § 18-44)

Sec. 4.110.160. Snow emergency routes designated.

The following streets or portions of streets within the city designated on Schedule X are hereby designated as snow emergency routes:

Streets Designated As Emergency Snow Routes

Street	From	To
Salt Rock Road (68th Street)	West city limits	North Broadway
N. Broadway	N.W. Englewood Road	North city limits
Old Pike Road	N.W. Vivion Road	N.W. Englewood Road
N. Oak	N.E. Englewood Road	North city limits
N. Holmes	N.E. 69th Street	N.E. 72nd Street
N. Troost	N.E. 68th Street	North city limits
N. Flora	N.E. Englewood Road	N.E. 68th Street
*N. Antioch Road	N.E. Englewood Road	N.E. 64th Street
N. Antioch Road	N. Prospect	North city limits
*M-1 Highway	South city limits	North city limits

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(N. Antioch/N. Prospect)		
Englewood Road	N. Broadway	N. Oak
Englewood Road	Oak Tree Lane	N. Antioch Road
Shady Lane	N. Broadway	N. Oak
Shady Lane	East Limits, Oakview	N. Antioch Road
N.E. 65th Street	N. Flora	N.E. 64th Street
N.E. 64th Street	N.E. 64th Street	N. Prospect (M-1)
N.E. 68th Street	N. Troost	N. Flora
N.E. 70th Street	N. Oak	N. Holmes
N.E. 72nd Street	N. Broadway	East city limits
N.E. 76th Street	N. Oak	North city limits
NE Pleasant Valley Road	N. Antioch Road	East City Limits
NE Shady Lane Drive	N. Bales Avenue	East City Limits
NE 69th Street	N. Oak Trafficway	N. Troost Avenue
N. Euclid	N.E. 72nd Street	N.E. 76th Street
Brooktree Lane	N. Antioch Road	N. Jackson Street
N. Bales	Brooktree Lane	N.E. Antioch Road
Kendallwood Parkway	N. Antioch Road	Brooktree Lane
Bellevue	N.W. Vivion Road	N.W. 44th Terrace
44th Terrace	N. Bellevue	West city limits
N. Indiana	South city limits	Brooktree Lane

Note: * (Starred) streets are maintained by the state highway department.

(Code 1974, § 18-45; Ord. No. 4.440 , § 1(Exh. A), 8-13-2018)

Sec. 4.110.170. Penalty for violation of chapter.

Every person convicted of a violation of any provision of this chapter shall be punished by a fine of not more than \$100.00 or less than \$5.00 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(Code 1974, § 18-46)

CHAPTER 115. TOW VEHICLES³⁵

³⁵Cross reference(s)—Business and occupations, tit. V.

Sec. 4.115.010. 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:

Person means any individual, assumed name entity, joint venture, association, corporation or other legal entity.

Tow service business means any person, firm, association, corporation, partnership or organization engaged in the operation of one or more tow vehicles for a fee or as part of an auto salvage, auto repair or junk business.

Tow vehicle means any motor vehicle which is designed or equipped to or which does in fact provide any towing service including but not limited to towing, pushing or car starting, for which a fee is charged or as part of an auto salvage, auto repair or junk business; except that vehicle transports or multicar vehicles shall not be construed to mean tow vehicles for the purpose of this chapter.

(Code 1974, § 18-57)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 4.115.020. Penalty.

Any person who is found to have violated any provisions of this chapter or who neglects or fails to comply with the provisions of this chapter shall upon conviction for such violation shall be punished as provided in section 1.100.140 of this Code.

(Code 1974, § 18-59)

Sec. 4.115.030. Vehicle labeling.

There shall be legibly printed in letters not less than 1½ inches high on each side of a tow vehicle the name, address and phone number of the tow service.

(Code 1974, § 18-60)

Sec. 4.115.040. Requirements and operating procedure for tow service.

All tow service businesses shall comply with the following requirements and procedures:

- (1) *Removal of wreckage and debris.* Completely remove from the site of an accident all resulting wreckage or debris, including all broken glass, but excluding truck or vehicle cargos, before leaving the site.
- (2) *Fire extinguishers.* Each tow vehicle shall have on hand at least one fire extinguisher of a type recommended by the manufacturer to put out gasoline fires and fires in automobiles. At least one such fire extinguisher shall be in the garage or other place where tow vehicles are stored. Such fire extinguisher shall be in plain sight in an easily accessible location, and shall be kept charged. Each employee shall be informed of the location of the fire extinguisher and of the manufacturer's instructions for using it.

(Code 1974, § 18-62)

Sec. 4.115.050. Solicitation.

- (a) *Driving tow vehicle to scene of accident prohibited; exception.* No person may drive a tow vehicle, licensed or unlicensed, to the scene of an accident on the streets of the city unless the person has been called to the scene by the police dispatcher or by the owner or operator of a vehicle disabled in the accident.
- (b) *Soliciting tow service business at scene of accident prohibited; presence at scene as evidence of violation.* No person may solicit in any manner, directly or indirectly, on the streets of the city, the business of towing a vehicle which is wrecked or disabled on a street, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading or purchasing the vehicle. Proof of the presence of a person in the tow service business or the presence of a tow service vehicle owned or operated by a person in the tow service business, either as owner, operator, employee or agent, on a street in the city, stopped at the scene of an accident which was not involved in the accident and whose driver or occupants were not witnesses to the accident and which has not been called to the scene by the police dispatcher, or by the owner or operator of the vehicle within one hour after the happening of an accident, is prima facie evidence of a solicitation in violation of this section.
- (c) *Soliciting by advertising.* No person may solicit any business at the scene of an accident which deals directly or indirectly with the towing, removing, repairing, wrecking, storing, trading or purchase of a wrecked or disabled motor vehicle, vehicle trailer or semitrailer on the streets or sidewalks of the city, nor may a person solicit the business of towing, removing, repairing, wrecking, storing, trading, buying or offering to buy a wrecked or disabled motor vehicle, vehicle trailer, or semitrailer on the streets, sidewalks or any public place in the city, by distributing an advertisement, advertising a repair shop, garage, or place of business where the wrecked or disabled motor vehicle, vehicle trailer or semitrailer may be repaired, stored, wrecked, traded, or purchased. Proof of the presence of a person engaged in the tow service business, repairing, wrecking, storing, or offering to purchase or trade for a wrecked or disabled motor vehicle, vehicle trailer or semitrailer at the scene of an accident is prima facie evidence of solicitation in violation of this section, unless such person was involved in the accident or was a witness to the accident, or was called by the police dispatcher or was called by the owner or operator of the vehicle to go there.
- (d) *Response to private calls permitted.* A tow service business may respond within the city to a private request for tow service, when a wreck or collision on a street is involved. A tow service business may respond to a private request for wrecker service to a disabled vehicle not involved in a wreck.

(Code 1974, § 18-64)

Sec. 4.115.060. Enforcement; powers and duties of ~~public safety director~~Chief of Police.

In addition to the powers and duties elsewhere prescribed in this chapter, the ~~Chief of Police~~~~public safety director~~ is authorized to:

- (1) Enforce all provisions of this chapter;
- (2) Conduct, when appropriate, periodic investigations of tow service businesses throughout the city; and
- (3) Keep records of service problems, complaints, and conflicts as a result of tow service and provide these records to the city manager upon request.

(Code 1974, § 18-65)

CHAPTER 120. FINANCIAL RESPONSIBILITY

Sec. 4.120.010. Financial responsibility required for operation of vehicle.

No person shall operate a motor vehicle registered in this state, whether owned by such operator or by another, upon the streets, alleys or highways of this city, unless such operator, or the owner of the vehicle, maintains financial responsibility which covers the operation of that vehicle by such operator.

(Ord. No. 3.501, § 1(18-70(A)), 3-11-1996)

Sec. 4.120.020. Proof of financial responsibility.

No person shall operate a motor vehicle registered in this state, whether owned by such operator or by another, upon the streets, alleys or highways of this city, unless such operator exhibits proof of financial responsibility upon demand of a police officer, which proof covers the operation of that vehicle by such operator.

(Ord. No. 3.501, § 1(18-70(B)), 3-11-1996)

Sec. 4.120.030. Definition.

For the purposes of this section, the term "financial responsibility" means the ability to respond in damages for liability occurring after the effective date of proof of such financial responsibility, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of \$25,000.00 because of bodily injury to or death of one person in any one accident, and, subject to the limit for one person, in the amount of \$50,000.00 because of bodily injury to or death of two or more persons in any one accident, and in the amount of \$10,000.00 because of injury to or destruction of property of others in any one accident.

(Ord. No. 3.501, § 1(18-70(C)), 3-11-1996)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 4.120.040. Examples of proof of financial responsibility.

Proof of financial responsibility may be shown by any of the following:

- (1) An insurance identification card issued by a motor vehicle insurer or by the director of revenue of the state for self-insurance, as provided by RSMo 303.024. A motor vehicle insurance policy, a motor vehicle liability insurance binder or receipt which contains the name and address of the insurer, the name and address of the named insured, the policy number, the effective dates of the policy and a description by year and make of the vehicle, or at least five digits of the vehicle identification number or the word "fleet" if the insurance policy covers five or more vehicles, shall be satisfactory evidence in lieu of an insurance identification card.
- (2) A certificate of the state treasurer of a cash deposit as provided by RSMo 303.240.
- (3) A surety bond filed with the director of revenue of the state as provided by RSMo 303.230.

(Ord. No. 3.501, § 1(18-70(D)), 3-11-1996)

Sec. 4.120.050. Carrying proof of financial responsibility.

Proof of financial responsibility shall be carried at all time 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

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officer who lawfully stops such operator while that officer is engaged in the performance of the duties of such office.

(Ord. No. 3.501, § 1(18-70(E)), 3-11-1996)

Sec. 4.120.060. Failure to produce proof of financial responsibility.

Failure of any person who operates a motor vehicle on the streets, alleys or highways of this city to exhibit proof of financial responsibility on the demand of any police officer who lawfully stops such person shall be prima facie evidence that such person, or that the owner of the vehicle, does not maintain financial responsibility as required by this section. It shall be an absolute affirmative defense to a violation charged under section 4.120.010 that the operator of a motor vehicle, or the owner of the vehicle, did maintain financial responsibility which covered operation of the vehicle by such operator on the date of the violation. It shall be a mitigating circumstance to a violation charged under section 4.120.010 that the operator, subsequent to the date of the offense and prior to a trial or guilty plea, obtained and maintained financial responsibility which covers operation of motor vehicles by such operator.

(Ord. No. 3.501, § 1(18-70(F)), 3-11-1996)

Title V BUSINESS AND OCCUPATIONS³⁶

³⁶Cross reference(s)—Food and food service establishments, § 2.100.110 et seq.; tow vehicles, § 4.115.010Cross reference(s)— et seq., utilities and taxes, title VI; C-O nonretail business district, § 7.130.010Cross reference(s)— et seq.; C-1 local business district, § 7.135.010Cross reference(s)— et seq.; C-2 general business district, § 7.140.010Cross reference(s)— et seq.; C-3 commercial district, § 7.145.010Cross reference(s)— et seq.; C-4 small warehouse and storage district, § 7.150.010Cross reference(s)— et seq.; M-1 light industrial district, § 7.155.010Cross reference(s)— et seq.

State law reference(s)—Authority of third class cities to license, regulate, etc., certain businesses and occupations, RSMo 94.110; exemption of certain occupations from license tax, RSMo 71.620, 71.630.

CHAPTER 100. GENERAL PROVISIONS

Sec. 5.100.010. 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:

Gross annual receipts means 12 times the average monthly gross receipts for the time during which any business subject to a license under this chapter shall have been conducted in the city or, if such business has been conducted for a period of 12 months or more, then such phrase shall mean the total of the gross receipts for the 12 months preceding the date upon which the license shall become due. In computing the amount of such license tax, a major fraction of \$1,000.00 of gross annual receipts shall be considered and paid for as though \$1,000.00.

Licensee means any person who is required to secure a license under the terms of this chapter.

Manufacturer means every person who shall hold or purchase personal property for the purpose of adding to the value thereof by any process of manufacturing or by the combination of different materials or who shall purchase and sell manufactured articles such as are manufactured by it, or such as are used in manufacturing.

Merchant means every person who shall deal in the selling of goods, wares and merchandise at any store, stand or place occupied for that purpose, in the conduct of any business is declared to be a merchant. Every person doing business within the city who shall, as a practice in the conduct of such business, make or cause to be made any wholesale or retail sale of goods, wares and merchandise, shall be deemed to be a merchant whether such sales are accommodation sales, whether they are made from a stock of goods on hand, or by ordering goods from another source, and whether the subject of such sales are similar or different types of goods than the type, if any, regularly manufactured, processed or sold by such seller.

(Code 1974, § 17-1)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 5.100.020. Operating business without license prohibited.

It shall be unlawful for any person to be a merchant or manufacturer or to engage in any business or occupation for which a license is required by this chapter, without first having obtained a license therefor and paid all license taxes required by this chapter, and having made all reports required by this chapter.

(Code 1974, § 17-2)

Sec. 5.100.030. Separate license for each place of business.

A separate license shall be obtained for each place of business conducted, operated, maintained or carried on by every person engaged in any occupation, calling, trade or enterprise for which a license is required by this chapter.

(Code 1974, § 17-3)

Sec. 5.100.040. Application; affidavit as to amount of gross receipts.

Every person subject to a license under this chapter shall submit an application as reasonably required by the city collector and shall include with such application a sworn statement made by such person showing the true amount of the gross annual receipts of such business or occupation for the preceding 12 months, or the total gross receipts from such business and the number of months such business has been conducted in the city, if less than 12 months, using as the basis for such computation the same figures as shown by such applicant's books and records, by the applicant's federal and state income tax returns, by the applicant's state sales tax returns, or by any other records or copies thereof, which correctly and accurately show such gross annual receipts of the applicant for such period.

(Code 1974, § 17-4)

Sec. 5.100.050. Levy and amount of tax.

- (a) There is hereby levied on every merchant or manufacturer or person engaged in any business or occupation enumerated in RSMo 94.110 and as described in the license schedule on file in the city clerk's office a license tax.
- (b) The license tax levied on such businesses shall be \$30.00 per year and, in addition thereto, the sum of \$0.30 for each \$1,000.00 of gross annual receipts of such business.

(Code 1974, § 17-5)

State law reference(s)—Authority of city council to levy taxes and licenses, RSMo 94.020; specific businesses, RSMo 94.110.

Sec. 5.100.060. Payment of tax prerequisite for issuance; contents; posting at business location.

No license shall be issued under this chapter until the amount of the license tax prescribed therefor shall be paid to the city collector. Every license issued hereunder shall bear the date of issuance, the name of the person to whom issued, the fact that it is a license, and it shall be signed by the mayor and city clerk, and countersigned by the city collector, and shall bear the seal of the city. Such license shall be displayed in a conspicuous place at the location shown on the license.

(Code 1974, § 17-6)

State law reference(s)—Collection of taxes by city collector and monthly payment of same into city treasury, RSMo 94.140.

Sec. 5.100.070. Issuance date and duration; preliminary license and fees; proration of licenses.

- (a) All licenses provided for by this chapter shall be due on and issued as of July 1 of each year and shall expire on June 30 of the following year. Licenses shall be annual licenses and no license shall be issued for more than one year; provided that in the case of a business or occupation newly established at a particular location within the city after July 1 of each year, a license, to be known as a preliminary license, may be issued as of the date of the beginning of such business or occupation and for the remainder of the license

year, on the payment of a tax as provided in this chapter, and upon compliance with the other requirements of this chapter.

- (b) The tax for such preliminary license for a business commenced in the city after July 1, but before January 1, shall be \$30.00 plus \$0.30 for each \$1,000.00 of the anticipated gross receipts for such business for the remainder of the license year. The tax for such preliminary license for a business commenced in the city after January 1 shall be \$15.00 plus \$0.30 for each \$1,000.00 of anticipated gross receipts for such business for the remainder of the license year.
- (c) The tax for such preliminary license shall be subject to adjustment at the end of the preliminary license period on the basis of the actual gross receipts during such period.

(Code 1974, § 17-7)

Sec. 5.100.080. Payment of delinquent personal and license taxes prerequisite to issuance.

No license required under the provisions of this chapter shall be issued to any applicant until all license or personal property taxes owed by such applicant have been paid, together with all penalties thereon.

(Code 1974, § 17-8)

State law reference(s)—Collection of delinquent taxes by city collector, RSMo 94.170.

Sec. 5.100.090. Workers' compensation insurance certificate required.

- (a) No license required under the provisions of this chapter shall be issued to any applicant until a copy of a certificate of insurance for workers' compensation coverage is provided, if the applicant is required to cover the applicant's liability under RSMo ch. 287. It is further made a violation of this chapter for the applicant to provide fraudulent information to the city.
- (b) Nothing in this chapter shall be construed to create or constitute a liability to or a cause of action against the city in regard to the issuance or nonissuance of any license for failure to provide evidence of workers' compensation coverage.

(Ord. No. 3.218, § 1(17-8.1), 8-9-1993)

Sec. 5.100.100. Refund of tax on cessation of business.

No refund shall be made on any license tax imposed under this chapter due to the cessation of the business during any calendar year.

(Code 1974, § 17-9)

Sec. 5.100.110. Failure to comply with chapter voids license.

Any license granted under this chapter shall become void upon failure of the licensee to make any report or to pay any license tax required, and such license shall also be void in the event the licensee ceases to engage in the licensed business. No license shall be issued to any person subject to the provisions of this chapter who has failed to make any report or pay any license tax in the past, unless such reports have been made and any tax due is paid.

(Code 1974, § 17-10)

Sec. 5.100.120. Acceptance of tax by city collector no waiver; effect of failure to pay tax on right of city to collect.

The acceptance and receipt by the city collector of any amount of tax based upon the report of any licensee shall not prevent or stop the city from thereafter collecting the true amount of tax due. The failure or refusal of any person engaged in any business subject to this chapter to procure a license and to pay the tax therefor shall not affect the right of the city to collect any license tax which should have been paid under the terms of this chapter.

(Code 1974, § 17-11)

Sec. 5.100.130. Inspection of books and records.

- (a) The city collector and the city collector's assistants and any public accountant designated by the city council shall have the right, at all reasonable times, during business hours, to examine and inspect the books, documents, accounts, contracts, records, vouchers, inventories and receipts and any other records or reports as may be necessary to determine the correctness of any report filed by the licensee under this chapter, or the amount of the tax due.
- (b) It shall be unlawful for any licensee, or any agent or employee of a licensee, to refuse permission to the city collector, the city collector's assistants, or to any public accountant selected by the city council to inspect the books, documents, accounts, contracts, records, vouchers, inventories and receipts and any other records or reports, and it shall be unlawful for any licensee, or any agent or employee of a licensee, in any manner to hinder or obstruct such city collector, the city collector's assistants, or any public accountant selected by the city council in such inspection, and any licensee or employee or agent of such licensee who refuses or hinders or obstructs such inspection shall be deemed guilty of a misdemeanor and, upon conviction thereof, punished as provided in this chapter.

(Code 1974, § 17-12)

Sec. 5.100.140. When licenses deemed delinquent.

Licenses shall be delinquent on August 1 of each year and the penalties provided for in this chapter shall commence on August 1 of each year.

(Code 1974, § 17-13)

Sec. 5.100.150. Penalties for delay in paying or refusal to a license tax.

- (a) If any person subject to this chapter shall fail or refuse to apply for and obtain a license required, and pay the tax levied therefor, at the time due, a penalty of ten percent of the license tax due shall be imposed in addition to such tax, and an additional penalty of two percent of the original tax shall be added to the license tax on the last day of each calendar month thereafter, until such payment and the accrued penalties have been paid in full as provided for in this chapter. However, in no event shall the total penalties provided for in this chapter exceed 30 percent of the original license tax.
- (b) In addition, any person who engages in any business or occupation subject to the provisions of this chapter without first procuring and paying for a license to do so, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in this chapter.

(Code 1974, § 17-14)

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Sec. 5.100.160. Change of location of place of business.

A licensee may apply to amend the license issued to such licensee to authorize the conduct of the same business or occupation at a location different from that shown on such license, upon a payment of a fee of \$2.50 to the city collector.

(Code 1974, § 17-15)

Sec. 5.100.170. Contractors to obtain license before issuance of building permit.

No building permit shall be issued by the city to any contractor, owner or person in control of any real estate in such city for the construction, erection or remodeling of any residence, building, bridge, stonework, sewer, street, sidewalk, parking lot or other structure, or any parts thereof, unless such contractor, owner or person in control of such real estate has applied for, obtained and paid for a license as required in this chapter.

(Code 1974, § 17-16)

Sec. 5.100.180. Effect of other licensing provisions.

The fact that any person subject to a tax under the provisions of this chapter is required to obtain also any license or permit under any other provision of this Code or other ordinance of this city shall not excuse or exempt such person from the provisions of this chapter or from the license tax provided for in this chapter.

(Code 1974, § 17-17)

Sec. 5.100.190. Violations; penalties.

Any person violating any of the provisions or terms of this chapter shall be deemed guilty of a misdemeanor. Each and every day that any person continues to violate any of the terms or provisions of this chapter shall be deemed a separate and distinct offense. Nothing contained in this chapter shall be held to prevent the city from assessing any penalty provided for by this chapter or from collecting any license due and taxed, by civil suit.

(Code 1974, § 17-18)

Sec. 5.100.200. Use of fingerprints.

This section is enacted pursuant to RSMo 43.535, to regulate the issuance of licenses for adult business owners, managers, servers, or entertainer as adult businesses under section 5.115.060, applicants for Class A and Class D licenses under section 5.110.190, and employees of retail establishments under section 5.110.320 within the City of Gladstone, Missouri.

An applicant or employee seeking to engage in the operation of an adult business or acting as a manager, server or entertainer at an adult business under section 5.115.060, applicants for Class A and Class D licenses under section 5.110.090, and employees of retail establishments under section 5.110.320 shall submit his/her fingerprints to the Missouri State Highway Patrol, Criminal Justice Information Services (CJIS) Division, along with appropriate fees. The Missouri State Highway Patrol, CJIS Division will compare the subject's fingerprints against its criminal file and, if necessary, submit the fingerprints to the Federal Bureau of Investigation for comparison with national criminal history records. The results of the Federal Bureau of Investigation check will be returned to the Missouri State Highway Patrol, CJIS Division, which will disseminate the state and national results to the city.

The city shall render a fitness determination based upon the results of the criminal background check. In rendering a fitness determination, the city will decide whether the subject of record has been convicted of or if they are under pending indictment for (a) a crime which bears upon his/her ability or fitness to serve in that capacity; (b) any felony or a misdemeanor which involved force or threat of force, controlled substances, or was a sex-related offense, or (c) enumerate disqualifiers in the applicable sections of this Code.

The subject of record may require and receive a copy of his/her criminal history record information from the city. Should the subject of record seek to amend or correct his/her record, he/she must contact the Missouri State Highway Patrol, CJIS Division for a Missouri state record and the Federal Bureau of Investigation for records from other state jurisdictions maintained in its file.

(Ord. No. 4.350, § 1, 5-9-2016)

CHAPTER 105. ALARM SYSTEMS

Sec. 5.105.010. 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:

Alarm coordinator means the individual designated by the ~~Chief of Police~~~~director of public safety~~ to issue permits and enforce the provisions of this chapter.

Alarm signal means a detectable signal, audibly, visually or both, to which the ~~public safety~~~~police~~ department is expected to respond on an emergency basis, generated by an alarm system, indicating the commission of, or attempt to commit, a crime, presence of medical emergency or other emergency.

Alarm system means any single device or assembly of equipment designed to signal the occurrence of an illegal entry or other emergency activity requiring immediate attention and to which the ~~public safety~~~~police~~ department is expected to respond.

Alarm user means any person in possession of any building, structure or facility, or part thereof, who purchases, leases, contracts for or otherwise obtains an alarm system; any person who contracts for the servicing or maintenance of an alarm system; any person who contracts with or hires an alarm business to monitor an alarm system.

Alarm user permit number means a number issued to an alarm user by the ~~director of public safety~~~~Chief of Police~~ or the director's designee for the purpose of identifying that system for dispatching, report writing, and recordkeeping purposes.

Annunciator means the instrumentation on an alarm console at the receiving terminal of a signal line which through both visual and audible signals shows that an alarm device at a particular location has been activated, or indicates line trouble.

Automatic dial protection device means an electrically operated instrument composed as sensory apparatus and related hardware which automatically sends over regular telephone lines a prerecorded voice alarm upon receipt of a stimulus from the sensory apparatus that has detected a force or condition characteristic of an unauthorized intrusion or an emergency message indicating a need for emergency response.

Calendar year means each 12-month period beginning on January 1 and ending on December 31. The starting date for new systems shall be the actual date the permit is issued by the ~~director of public safety~~~~Chief of Police~~ or the director's designee or the date of the first false alarm reported by the system, whichever occurs first, and the ending date shall be December 31.

~~Director of public safety~~Chief of Police means the ~~director of public safety~~Chief of Police of the city, or the ~~director of public safety's~~their designated representative.

False alarm means an alarm signal eliciting a response by the ~~public safety~~police department when a situation requiring an immediate response does not in fact exist, such as when no breach of security has been attempted or committed, or no emergency exists. An alarm will not be considered a false alarm if it is determined that the alarm was caused by:

- (1) Natural or manmade catastrophe, or an act of God. Such events include tornadoes, floods, earthquakes or other similarly violent conditions;
- (2) Vandalism causing physical damage to the premises;
- (3) Telephone line outage;
- (4) Attempted entry of a location causing visible, physical or other evidence of damage to the location;
- (5) Severe weather causing physical damage to the premises;
- (6) The test of a local alarm system by a licensed alarm business agent or employee who is present at the premises servicing, repairing or installing the alarm when such testing does not result in the alarm being activated for an uninterrupted period exceeding 60 seconds and when the city ~~public safety~~police department has been notified of the test.

Local alarm system means an alarm system which when activated causes an audible and/or visual signaling device to be activated only on the premises within which the system is installed and which is intended to be heard or seen by others outside of the protected premises.

Multiple false alarms means multiple false alarms on any one system, occurring within a 24-hour period of time, shall be considered as one false alarm.

System means both local alarm systems and alarm systems.

(Code 1974, § 2.1-1)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 5.105.020. Alarm user permit.

- (a) *Alarm user permit number required.* No person shall use a local alarm system, or alarm system after October 1, 1989, which is designed to elicit, either directly or indirectly, a ~~public safety~~police department response without first obtaining an alarm user permit number for such system from the ~~director of public safety~~Chief of Police.
- (b) *Motor vehicles exempt.* An alarm user permit number shall not be required to operate local alarm systems affixed to motor vehicles.
- (c) *Existing systems.* All persons using a system installed prior to October 1, 1989, shall obtain an alarm user permit number prior to November 1, 1989, from the ~~director of public safety~~Chief of Police authorizing the continued use of the system.
- (d) *Application.* The alarm user permit number shall be requested on an application provided by the ~~director of public safety~~Chief of Police, which shall include:
 - (1) *Address.* Common address at which the system is installed, not to include post office boxes.
 - (2) *Alarm user.* Full name and address of the alarm user.

-
- (3) *Property owner.* Full name, street address, and telephone number of the owner of the property at which the system is installed.
 - (4) *Type of system.* Description of the system, including whether it is equipped to cease emitting an audible alarm sound within 15 minutes of activation for property located within an area zoned residential or within 500 feet of an area zoned residential, and within 30 minutes of activation for property located within all other areas not zoned residential and not within 500 feet of an area zoned residential.
 - (5) *Installer.* Full name and address of the firm installing, or who has already installed, the system.
 - (6) *Date.* Date the system was installed.
 - (7) *Service.* If the system is serviced or maintained by someone other than the alarm user, full name, address of the person servicing or maintaining the system.
 - (8) *Monitor.* If the system is monitored by someone other than the alarm user, full name, address and telephone number of the person monitoring the system.
 - (9) *Contact.* Name, address and telephone number of a person to be contacted by the city ~~public safety~~police department in the event the alarm user is not available.
 - (10) *Additional information.* Any other information required by the ~~director of public safety~~Chief of Police to facilitate compliance with this chapter.
- (e) *Transfer of possession.* When the possession of the premises at which a system is maintained is transferred, the person obtaining possession of the property shall file an application for an alarm user permit number within 30 days of obtaining possession of the property.
 - (f) *Correct information required.* Whenever the information provided on the alarm user permit number application changes, the correct information shall be provided to the ~~director of public safety~~Chief of Police within 30 days of the change.
 - (g) *Identification sticker.* No person shall use a system, without posting at the front entrance of the premises served by the system, an identification sticker, issued by the director of ~~public safety~~Chief of Police, with the alarm user permit number printed upon such sticker.

(Code 1974, § 2.1-2)

Sec. 5.105.030. Grace period.

- (a) *Existing systems.* Any false alarms which have been reported by, or caused to be reported by, a system prior to enactment of this chapter shall not be considered for any purpose.
- (b) *New systems.* All new alarm systems used or installed after October 1, 1989, shall receive either a 90-day grace period from the date of activation or six false alarms, whichever occurs first, for the purpose of adjustments and corrections in the alarm system, prior to any penalty as provided in this chapter.

(Code 1974, § 2.1-3)

Sec. 5.105.040. Local alarm systems; length of alarm.

- (a) *Residentially zoned property.* Local alarm systems or alarm systems located within an area zoned residential or within 500 feet of an area zoned residential shall automatically discontinue emitting an audible sound within 15 minutes of activation. However, a system installed prior to the effective date of the ordinance from

which this chapter is derived, which does not have the capability to automatically discontinue the audible alarm sound within 15 minutes of activation shall not be subject to the requirements of this section.

- (b) *Property not zoned residential.* Local alarm systems or alarm systems located within an area not zoned residential and not within 500 feet of an area zoned residential shall automatically discontinue emitting an audible sound within 30 minutes of activation. However, a system installed prior to the effective date of the ordinance from which this chapter is derived, which does not have the capability to automatically discontinue the audible alarm sound within 30 minutes of activation, shall not be subject to the requirement of this section.

(Code 1974, § 2.1-4)

Sec. 5.105.050. Automatic dial protection devices prohibited.

- (a) *Report of recorded message.* No automatic dial protection device shall be used to report, or cause to be reported, any recorded message directly to the city ~~public safety~~police department, without the prior permission of the ~~director of public safety~~Chief of Police.
- (b) *Exception.* Direct dial systems in place as of the effective date of the ordinance from which this chapter is derived.

(Code 1974, § 2.1-5)

Sec. 5.105.060. Direct connection to the ~~public safety~~police department; new system.

- (a) All alarm users, whose alarm system does not terminate in the ~~public safety~~police department on the effective date of the ordinance from which this chapter is derived, who desire to terminate in the annunciator in the ~~public safety~~police department shall acquire the alarm user's permit as outlined in subsection 5.105.020(a). Prior to connection, the alarm user's system must be inspected and approved by the city and/or its agent.
- (b) Connections will be allowed only for those systems the signals of which are compatible with the city authorized monitoring equipment. If decoder adjustments are necessary, it is the user's responsibility. Space will be provided for necessary equipment and the work is subject to the approval of the city.

(Code 1974, § 2.1-6)

Sec. 5.105.070. Annunciator.

The city may seek competitive bids for the supplying of an annunciator in the city's ~~public safety~~police department at the pro rata expense of the customer served thereby.

(Code 1974, § 2.1-7)

Sec. 5.105.080. Review of false alarm determinations.

- (a) *Notification.* An alarm user shall be notified in writing of each false alarm determination. The notification shall contain at least the following information:
- (1) Alarm user permit number;
 - (2) Alarm user name;

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- (3) Address at which alarm went off;
 - (4) Date of the alarm;
 - (5) Reason the alarm was determined to be a false alarm.
- (b) *Notice.* At the time of the sixth false alarm for any alarm user within any permit year, the alarm coordinator shall notify the alarm user by personal service upon the addressee, or given by United States mail of such occurrence and that additional false alarms during the permit year may require the alarm user's appearance in municipal court.
- (c) *Review of false alarm determinations.* The city ~~public safety~~police department alarm coordinator shall, when requested by an alarm user, review the determination that an alarm was false. Such review may be done by the alarm coordinator only if the alarm user requests such a review within 15 days of the mailing or other delivery of the notice of the false alarm determination. A request for a determination by the alarm coordinator shall include at least the following information:
- (1) Alarm user name;
 - (2) Address at which alarm is installed;
 - (3) Date of alarm being contested;
 - (4) Alarm user permit number;
 - (5) Facts upon which the request for a review of determination is made.

(Code 1974, § 2.1-8)

Sec. 5.105.090. Violations.

- (a) It shall be unlawful for any person to violate any provision of this chapter.
- (b) It shall be unlawful to use an alarm system or local alarm system which reports, or causes to report, seven or more false alarms within a calendar year. Such violations shall be subject to the penalties outlined in subsection 5.105.100(b).

(Code 1974, § 2.1-9)

Sec. 5.105.100. Penalties.

- (a) Any person convicted of violating any provision of this chapter shall, unless the specific penalties of subsection (b) of this section apply, be punished by a fine of not less than \$50.00 or more than \$500.00, or by imprisonment for a period not to exceed 180 days, or by both such fine and imprisonment.
- (b) Any alarm system which has recorded more than six false alarms within a permit year shall be subject to the following fines:
 - (1) Seven through ten false alarms, \$25.00 each.
 - (2) Eleven through 15 false alarms, \$50.00 each.
 - (3) Sixteen through 20 false alarms, \$75.00 each.
 - (4) Twenty-one and each subsequent false alarm, \$100.00 each.
- (c) Each day of violation of any provision of this chapter shall constitute a separate offense.

(Code 1974, § 2.1-10)

CHAPTER 110. ALCOHOLIC BEVERAGES³⁷

³⁷ Editor's note(s)—Ord. No. 4.284, adopted August 25, 2014, repealed the former ch. 110 and enacted a new chapter as set out herein. The former ch. 110, §§ 5.110.105—5.110.360, pertained to similar subject matter and derived from Ord. No. 4.140, § 2, adopted March 22, 2010; Ord. No. 4.147, § 2, adopted May 10, 2010; and Ord. No. 4.155, § 2, adopted July 12, 2010.

- CODE OF ORDINANCES
Title V - BUSINESS AND OCCUPATIONS
CHAPTER 110. - ALCOHOLIC BEVERAGES
ARTICLE 1. IN GENERAL

ARTICLE 1. IN GENERAL

Sec. 5.110.001. Title and purpose.

Chapter 110 of this title shall be known as the Liquor Control Ordinance. Intoxicating liquor is, by law, an age-restricted product that is regulated differently than other products. The provisions of state law establish vital state regulation of the sale and distribution of intoxicating liquor in order to promote responsible consumption, combat illegal underage drinking, and achieve other important state policy goals such as maintaining an orderly marketplace. The provisions of this chapter are enacted in order to preserve and protect the health, safety, and welfare of the citizens of the City of Gladstone.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.100. 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:

Alcoholic beverages means intoxicating liquor or malt liquor or wine.

Board means the liquor control board of review.

~~*Director* means the Director of Public Safety for the City of Gladstone, Missouri.~~

Intoxicating liquor means alcohol for beverage purposes, alcohol, spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes containing in excess of 0.5 percent of alcohol by volume.

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

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

Managing officer means a person who meets the qualifications under section 5.110.2900 of this chapter.

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

Nonintoxicating beer means any beer manufactured from pure hops and 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 0.5 percent by volume and not exceeding 3.2 percent by weight.

Officer means the liquor control officer.

Original package means any package containing one or more standard bottles or cans of malt liquor or nonintoxicating beer, 50 milliliters (1.7 ounces) or more of spirituous liquors and 100 milliliters (3.4 ounces) or more of vinous liquors in the manufacturer's original container. A standard bottle is any bottle or can containing 12 ounces or less of malt liquor or nonintoxicating beer.

Person is any individual, association, joint stock company, syndicate, co-partnership, corporation, receiver, conservator or other officer appointed by any state or federal court. Clubs are also included within the meaning of the term.

Premises is the place where intoxicating liquor or nonintoxicating beer is sold and it may be one room, a building comprising several rooms, or a building with adjacent or surrounding land such as a lot or garden.

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

Sale by the drink means the sale of any intoxicating liquor, except malt liquor in the original package, in any quantity less than 50 milliliters (1.7 ounces).

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

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. (Ord. No. 4.284, § 2, 8-25-2014)

ARTICLE 2. LICENSING

Sec. 5.110.200. License required.

It shall be unlawful for any person, firm, partnership or corporation to manufacture, sell or expose for sale in this city intoxicating liquor, as defined in section 5.110.100, in any quantity, without taking out a license or permit as provided herein.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.300. Keeping liquor unauthorized by license.

It shall be unlawful for the holder of any license authorized by this chapter for the sale of intoxicating liquor at retail by the drink for consumption on the premises where sold, to keep or secrete, or to allow any other person to keep or secrete in or upon the premises described in such license, any intoxicating liquor, other than the kind of liquor expressly authorized to be sold by such license, or any kind of liquor used exclusively as an ingredient in any foods being prepared and sold on the premises.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.400. Hours of sale and consumption.

- (a) No person having a license issued pursuant to this chapter, nor any employee of such person, shall sell, give away, or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday, upon or about his or her premises.
- (b) Any premises where intoxicating liquor is sold or consumed in violation of the provisions of this section is hereby declared to be a public and common nuisance.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.500. Serving or delivering in vehicles.

No retail licensee, nor employee of such licensee, shall sell or serve any intoxicating liquor or nonintoxicating beer to any person while such person is operating or is a passenger in or on any motor vehicle.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.600. Liquor by the drink; conduct of business.

- (a) Each holder of a license for sale of liquor by the drink shall be responsible to maintain an orderly place of business, in compliance with the following standards:
- (1) Each licensee shall maintain good order within the premises and in the parking and other areas frequented by its patrons immediately adjacent to its premises, and shall take reasonable steps to suppress fights and other disturbances on and about the premises;
 - (2) Each licensee shall assure that noise levels emanating from its premises and the parking and other areas immediately adjacent to its premises are controlled so as not to disturb the peace and quiet enjoyment of surrounding neighborhoods;
 - (3) Each licensee shall comply with all of the provisions of this chapter and the general laws of the state and the city, and assure that each of its employees also maintain such compliance;
 - (4) Each licensee shall assure that each of its employees has obtained the proper state and city permits required for establishments serving liquor by the drink;
 - (5) Each licensee shall fully cooperate with ~~public safety~~ police and fire department, fire, and code inspection officers and officials of the city, and shall allow access to all areas of the premises under their control to such public officials at all times during hours of business operation;
 - (6) Each licensee shall assure that its patrons, employees, and any entertainers employed on the premises conduct themselves in an orderly manner and not engage in lewd or disruptive behavior.
- (b) Failure of a licensee to conduct its business in accordance with the foregoing standards and requirements of this chapter shall subject the licensee to enforcement measures, including possible suspension, revocation, or denial of renewal of its license.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.700. Sale permitted on certain Sundays.

When any of the following days fall on a Sunday, any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of the license on that day after 9:00 a.m. and until the time which would be lawful on any other day of the week, notwithstanding any provisions of section 5.110.400 or any other provisions of this chapter to the contrary:

- (1) December 31;
- (2) January 1;
- (3) March 17;
- (4) July 4;

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- (5) The Sunday before Memorial Day;
 - (6) The Sunday before Labor Day; and
 - (7) "Super Bowl" Sunday.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.800. Prohibited employment.

- (a) No licensee shall employ on or about the licensed premises any person who has been convicted of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor; nor shall any licensee employ on or about the licensed premises any person who shall have had a license revoked under RSMo Ch. 311 or Ch. 312.
- (b) No retail licensee shall employ a prohibited felon to any position that involves the direct participation in retail sales of intoxicating liquor. "Direct participation in retail sales" includes the duties of accepting payment, taking orders, delivering, mixing or assisting in the mixing or serving of intoxicating liquor in the capacity of, but not limited to, bar manager, bartender, waiter, waitress, cashier, and sales clerk.
 - (1) A "prohibited felon" is one who has been convicted of a crime under the laws of any state or the United States, where the possible penalty at the time of the offense exceeded one year confinement and the crime involves homicide, assault involving a threat of death or serious injury or actual physical injury, assault upon a law enforcement officer, kidnapping or false imprisonment, any action that would constitute a sexual offense under RSMo. Ch. 566, prostitution, pornography, robbery, arson, stealing, burglary, forgery, counterfeiting, identity theft or false identification, bribery, unlawful use of a weapon, gambling, driving or boating while intoxicated, perjury, fake reports or declarations, the possession, purchase, sale or manufacture of drugs, tax fraud, mail fraud, food stamp fraud, or welfare fraud.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.900. Liquor in original package not to be opened where purchased.

- (a) In no event shall intoxicating liquor sold in the original package be opened or consumed on the premises where purchased.
- (b) In no event shall malt liquor sold in the original package be opened or consumed on the premises where purchased when by license the premises is classified under sections 5.110.2000(1)a. and b.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.1000. Unfinished bottles of wine.

No person shall carry an unfinished bottle of wine, light wine or domestic wine, as described in this chapter, from the premises where liquor by the drink is sold, except by a patron purchasing the wine from a premises licensed under section 5.110.2000(4)a. of this chapter, provided that:

- (1) The patron must have ordered a meal;
- (2) The bottle or bottles of wine must have been at least partially consumed during the meal;
- (3) The licensee must provide a dated receipt for the unfinished bottle or bottles of wine; and

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- (4) The licensee 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.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.1050. Draft beer, sale of 32 to 128 fluid ounces dispensed on premises for consumption off premises—Requirements.

- (a) Any person who is licensed to sell intoxicating liquor in the original package at retail as provided in section 5.110.2000(1)(a) may sell from 32 to 128 fluid ounces of draft beer to customers in containers filled by any employee of the licensee on the premises for consumption off such premises. Any employee of the licensee shall be at least 21 years of age to fill containers with draft beer.
- (b) *Labeling of containers.* Containers that are filled or refilled under subsection (a) of this section shall be affixed with a label or a tag that shall contain the following information in type not smaller than three millimeters in height and not more than 12 characters per inch:
- (1) Brand name of the product dispensed;
 - (2) Name of brewer or bottler;
 - (3) Class of product, such as beer, ale, lager, bock, stout, or other brewed or fermented beverage;
 - (4) Net contents;
 - (5) Name and address of the business that filled or refilled the container;
 - (6) Date of fill or refill;
 - (7) The following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at all times."
- (c) *Health warning statement.* Containers that are filled or refilled under subsection (a) of this section shall be affixed with the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 CFR Sections 16.20 to 16.22.
- (d) *Miscellaneous regulations.*
- (1) The filling and refilling of containers shall only occur on demand by a customer and containers shall not be prefilled by the retailer or its employee.
 - (2) Containers shall only be filled or refilled by an employee of the retailer.
 - (3) Containers shall be filled or refilled from the bottom of the container to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the container or with a commercial filling machine.
 - (4) When not in use, tubes to fill or refill shall be immersed and stored in a container with liquid food-grade sanitizer.
 - (5) Containers shall be filled or refilled as follows:
 - a. Containers shall be filled or refilled with a tube as described in subsection (d) of this section and:
 1. Food grade sanitizer shall be used in accordance with the Environmental Protection Agency registered label use instructions;
 2. A container of liquid food-grade sanitizer shall be maintained for no more than ten malt beverage taps that will be used for filling and refilling containers;

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3. Each container shall contain no less than five tubes that will be used only for filling and refilling containers;
 4. The container shall be inspected visually for contamination;
 5. After each filling or refilling of a container, the tube shall be immersed in the container with the liquid food-grade sanitizer; and
 6. A different tube from the container shall be used for each filling or refilling of a container.
- b. Containers shall be filled or refilled with a contamination-free process and:
1. The container shall be inspected visually for contamination;
 2. The container shall only be filled or refilled by the retailer's employee; and
 3. The filling or refilling shall be in compliance with the Food and Drug Administration Code 2009, Section 3-304.17(c).
- (6) After filling or refilling a container, the container shall be sealed as set forth in subsection (a) of this section.

(Ord. No. 4.395 , § 1, 8-28-2017)

Sec. 5.110.1100. Purchase or possession by minor, a misdemeanor, container need not be opened and contents verified, when consent to chemical testing deemed given, when burden of proof on violator to prove not intoxicating liquor, not applicable to certain students, requirements.

- (a) Any person under the age of 21 years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in section 5.110.100, or has a detectable blood alcohol content of more than 0.02 percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. A first violation of this section shall be punishable by a fine not to exceed \$300.00. A second or subsequent violation of this section shall be punishable by a fine of not more than \$500.00 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under 21 years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.
- (b) Any person under the age of 21 years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition, shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this subsection shall be limited to not more than two such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. Upon the

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request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

- (1) The type of test administered and the procedures followed;
- (2) The time of the collection of the blood or breath sample or urine analyzed;
- (3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;
- (4) The type and status of any permit which was held by the person who performed the test;
- (5) If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument.

Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the city. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

(c) The provisions of this section shall not apply to a student who:

- (1) Is 18 years of age or older; and
- (2) Is enrolled in an accredited college or university and is a student in a culinary course; and
- (3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and
- (4) Tastes a beverage listed under subsection (3) only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

The beverage must at all times remain in the possession and control of an authorized instructor of the college or university, who must be 21 years of age or older.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.1200. Misrepresentation of age by minor; use of altered driver's license.

- (a) Any person of the age of at least 17 years and under the age of 21 years who shall represent that they have attained the age of 21 years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, except in cases authorized by law, shall upon conviction be deemed guilty of a misdemeanor. Any person under the age of 17 years who shall represent that such person has attained the age of 21 years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, except in cases authorized by law, may be considered as a delinquent child and referred to the proper authorities to be dealt with in accordance with the provisions of RSMo Ch. 211.
- (b) In addition to any other penalties established in subsection (a) of this section, any person who is less than 21 years of age who uses a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by any uniformed service of the United States, passport or identification card established in RSMo 302.181 for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, shall be guilty of a misdemeanor and shall be subject to a fine of \$500.00 for each separate offense.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.1300. Persons eighteen years of age or older selling or handling liquor or beer; when allowed.

- (a) Except as provided in subsections (b) through (d) of this section, no person under the age of 21 years shall sell or assist in the sale or dispensing of intoxicating liquor.
- (b) In any place of business licensed in accordance 5.110.2000(1)a., b., c., d., or e., persons at least 18 years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register and accept payment for, and sack for carryout, intoxicating liquor. Delivery of intoxicating liquor or beer away from the licensed premises cannot be performed by anyone under the age of 21 years. Any licensee who employs any person under the age of 21 years, as authorized by this subsection, shall, when at least 50 percent of the licensee's gross sales does not consist of nonalcoholic sales, have an employee 21 years of age or older on the licensed premises during all hours of operation.
- (c) In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor or beer but which does not sell intoxicating liquor or beer at retail, persons at least 18 years of age may be employed and their duties may include the handling of intoxicating liquor or beer for all purposes except consumption. Any wholesaler licensed pursuant to RSMo Ch. 312 may employ persons of at least 18 years of age to rotate, stock and arrange displays at retail establishments licensed to sell intoxicating liquor or beer.
- (d) Persons 18 years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor or beer in premises which sell food for consumption on the premises if at least 50 percent of all sales in those places consists of food; provided that nothing in this section shall authorize persons under 21 years of age to mix or serve across the bar intoxicating beverages or malt liquor.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.1400. Persons under twenty-one years of age not allowed upon premises.

No person under 21 years of age shall be allowed upon the premises of, nor shall be employed as a server, entertainer or for any other purpose, by an establishment holding a liquor by the drink license unless the licensee also holds a Class D license as provided in section 5.110.2000(4)a., for the same premises.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.1500. Sale to minors and certain other persons prohibited.

- (a) Any licensee under this chapter, or any employee of any licensee, who shall sell, vend, give away or otherwise supply any alcoholic beverage in any quantity whatsoever to any person under the age of 21 years, or to any intoxicated person or person appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever, except such person's parent or guardian, shall be deemed guilty of a misdemeanor.
- (b) This section shall not apply to the supplying of alcoholic beverages to a person under the age of 21 years for medical purposes only, when administered by a duly licensed physician.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.1600. Persons under twenty-one years of age prohibited on premises.

It shall be unlawful for the licensee of any premises located in the city to knowingly allow any person under 21 years of age to remain on such premises while in possession of intoxicating liquor or while consuming intoxicating liquor in violation of this chapter.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.1700. Permitting drinking or possession by a minor.

Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of 21 years to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of 21 years from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of 21 years to drink or possess intoxicating liquor is his or her parent or guardian, is guilty of a misdemeanor.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.1800. Drinking in public.

It shall be unlawful for any person to consume intoxicating liquor or malt liquor or open any original package containing intoxicating liquor or malt liquor in or upon any public street, alley, park, public thoroughfare, bus or other public conveyance, or in any schoolhouse except for events approved by the city held in public parks or public spaces.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.1900. Sale of liquor prohibited near schools and churches.

No license shall be granted for the sale of intoxicating liquor within 300 feet of any school, church or other building regularly used as a place of religious worship, unless the applicant for the license shall first obtain the consent in writing of the officer, except that when a school, church or place of worship shall hereafter be established within 300 feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason. Such consent shall not be granted until at least ten days' written notice has been provided to all owners of property within 300 feet of the proposed licensed premises.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.2000. License required; classification of licenses.

It shall be unlawful for any person to sell or expose for sale in the city any intoxicating or malt liquor in any quantity, without first obtaining a license therefor from the city. For the purposes of this chapter the following classes of licenses or permits are hereby created:

(1) *Class A retail licenses:*

- a. *Original package.* For the sale of intoxicating liquor in the original package, not to be consumed on the premises where sold, by persons engaged in the operation of a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store.

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- b. *Package malt liquor.* For the sale of malt liquor not in excess of five percent by weight by grocers and other merchants and dealers in the original package. Notwithstanding the provisions of section 5.110.400, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.
 - c. *Malt liquor by the drink.* For the sale of malt liquor at retail by the drink for consumption on the premises where sold. Notwithstanding the provisions of section 5.110.400, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.
 - d. *Malt liquor and light wine by the drink.* For the sale of malt liquor and light wines at retail by the drink for consumption on the premises where sold.
 - e. *All intoxicating liquor by the drink.* For the sale of all intoxicating liquor at retail by the drink for consumption on the premises which shall include the sale of intoxicating liquor in the original package.
 - f. *All intoxicating liquor by the drink at eating or entertainment places.* For the sale of all intoxicating liquor at retail by the drink for consumption on the premises for persons operating any premises where food or entertainment are sold.
 - g. *Fifty-day special caterers.* For persons already holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises for use at a particular function, occasion, or event at a particular location other than the licensed premises. The special license shall be effective for a maximum of 50 days during any year, and shall authorize the service of intoxicating liquor at such function, occasion, or event during the hours at which intoxicating liquors may lawfully be sold or served upon premises licensed to sell intoxicating liquor for on-premises consumption.
 - h. *Unlimited special caterers.* A special license under the same terms and conditions as the 50-day special caterer's license described in subsection (1)g. above except for an unlimited number of functions during the year.
 - i. *Tax exempt charitable, fraternal, religious, service or veterans' organizations.* For the sale of intoxicating liquor at retail by the drink for consumption on the premises where sold. If the licensee's premises include two or more buildings in close proximity, such license shall be valid for the sale at any such building.
- (2) *Class B licenses:*
- a. *Sunday sales.* Any person who is licensed to sell intoxicating liquor at retail, including by the drink, may apply for a special license to sell intoxicating liquor at retail, including by the drink, between the hours of 9:00 a.m. and midnight on Sundays.
- (3) *Class C permits:*
- a. *Wine, malt liquor and spirits tasting.* Licensees holding a license to sell intoxicating liquor in the original package at retail under subsections (1)a., (1)b. and (2)a. above may apply for a special permit to conduct wine, malt liquor and spirituous liquors tastings on the licensed premises. This subsection shall not be construed to permit the sale of wine, malt liquor or spirituous liquors for on premises consumption.
 - b. *Picnic.* For the sale of all intoxicating liquor, at retail by the drink for consumption on the premises at a picnic, bazaar, fair, or similar gathering held by any church, school, civic, service, fraternal, veteran, political, or charitable club or organization. The permit shall be issued only for the day or days requested and shall not authorize the sale of intoxicating liquor for more than a total of seven days in any calendar year.

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- c. *Caterer/special event.* For caterers or other persons already holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises who furnish provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises. The temporary permit shall be effective for a period not to exceed 168 consecutive hours, during hours at which intoxicating liquor may lawfully be sold or served upon premises licensed to sell for on-premises consumption.
 - d. *Festival.* For persons already holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises who furnish provisions and service for use at a festival as defined in RSMO Ch. 316. The application for a permit shall be made at least five business days prior to the festival. The permit shall be effective for a period not to exceed 168 consecutive hours, and shall authorize the service of intoxicating liquor at such festival during the hours at which intoxicating liquor may lawfully be sold or served upon premises licensed to sell intoxicating liquor for on-premises consumption. This permit shall allow for the sale of intoxicating liquor in the original package.

(4) *Class D licenses:*

- a. *Under 21 patrons.* For persons already holding licenses to sell intoxicating liquor by the drink at retail under subsections (1)c., d., e. or f. who allow patrons under 21 years of age on the premises. No person who holds a license to sell intoxicating liquor at retail by the drink under subsections (1)c., d., e. or f. may allow patrons under 21 years of age upon the premises unless the primary business at the licensed premises is other than the sale of intoxicating liquor or malt liquor. For purposes of this subsection, a business is primarily for other than the sale of intoxicating liquor and malt liquor if 50 percent or more of the gross income of such business is derived from the sale of food, products, goods, items, activities, or services other than intoxicating liquor, malt liquor or wine.

(5) *Class E licenses:*

- a. *Manufacture.* For the manufacture of beer and malt liquor, in quantities not to exceed 10,000 barrels per annum.

(Ord. No. 4.284, § 2, 8-25-2014)

ARTICLE 3. ADMINISTRATION

Sec. 5.110.2100. Establishment of liquor control officer; powers and duties.

The city clerk shall serve as the liquor control officer ("officer") for the city. The officer is vested with the exclusive power to grant applications for original licenses or permits or the renewal or transfer of location of an existing license, or for change of ownership or change in managing officer, or change in management or control of a business, or to suspend or revoke a license or permit issued under this chapter for the sale of intoxicating liquor and with the power to make rules governing the conduct and method of operation of all licensees under this chapter.

The officer has the authority to suspend or revoke licenses based on violations of this chapter, violations of state law or violations of the regulations adopted by the state division of liquor control. Before any license is suspended or revoked the alleged violator shall be given notice in writing of the basis for suspension or revocation and the opportunity to appear before the officer to answer the allegations forming the basis of the suspension or revocation.

Any person aggrieved by an official action of the officer affecting the licensed status of a person, including refusal to grant, the grant, the revocation, the suspension or the failure to renew a license, may seek a determination by the board appealing such action. The officer shall be represented before the board by the city counselor.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.2200. Liquor control board of review; creation and duties.

The liquor control board of review is hereby created and is referred to herein as the "board."

- (1) The board shall adopt rules in accordance with the provisions of this chapter and RSMo 536.100 et seq. Meetings of the board shall be held at the call of the chairperson, and at such times as the board may determine. Such chairperson or, in the chairperson's absence, the acting chairperson may administer oaths and compel the attendance of witnesses.
- (2) Any person aggrieved by an action of the officer may appeal such decision to the board.
- (3) All appeals to the board shall be heard and recorded in accordance with RSMo 536.130, and shall be considered a contested case for purposes of judicial review.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.2300. Board membership; officers; organization.

- (a) The board shall consist of five regular members and three alternative members, who may serve in the absence of or disqualification of regular members. All board members shall be appointed by the mayor with the approval of the city council. Each member shall serve for five years, commencing on January 1 of the year that begins each member's term. Members may be removed by the city council for cause. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
- (b) The board members shall elect the following officers: chair, vice-chair and secretary to terms of one year. The officers may serve up to three consecutive terms in a specific office, and thereafter, may be re-elected to their previous position after a lapse of one year.
- (c) All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of such member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the city clerk, and shall be a public record. The presence of four members shall be necessary to constitute a quorum.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.2400. Appeals to board.

- (a) If an application for an original license or permit or the renewal or transfer of location of existing license, or for change of ownership or change in managing officer or change in management or control of the business under this chapter is not approved by the officer, or if another interested party disputes the approval of the same then the applicant or interested party may file with the officer a written request for a hearing appealing the officer's action within 15 days after the officer's written determination.

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- (b) The board shall hold a full and adequate hearing on the matter, joining all interested parties. Such hearing shall be recorded in accordance with RSMo 536.130, and shall be considered a contested case for purposes of judicial review.
 - (c) Written notice of such hearing shall be given at least ten days in advance of such hearing by regular U.S. Postal Service mail to the address provided by the applicant on the license and permit application and/or to the address provided by the applicant or other interested party on the written request for hearing filed with the officer. The applicant or other interested party will be directed to appear and show cause why the decision of the officer should not be sustained.
 - (d) Any party may be represented by counsel and all parties shall have an opportunity to be heard.
 - (e) The concurring vote of a simple majority of the board members shall be necessary to sustain or reverse the determination of the officer under review, or to decide in favor of the applicant or other interested party on any matter upon which the board is required to pass under this chapter, or to effect any variation in this chapter.
 - (f) Within 35 days following the hearing the board shall issue specific findings of fact, conclusions of law and decision with respect to each issue brought before it and deliver said findings of fact, conclusions of law and decision to the parties by regular mail as provided in subsection (c) herein.
 - (g) An appeal under this chapter stays all proceedings in furtherance of the officer's action appealed from until ten days after the date of the written findings of fact, conclusions of law and decision issued by the board.
 - (h) The board may assess liability for payment of costs against the applicant or other interested party in any hearing had before it if the board sustains in whole or in part the action taken by the officer. The board may assess actual costs incurred by the board in conducting the hearing. No license or permit shall be granted to a party against whom costs have been assessed until said costs have been paid to the city clerk. The cost of a transcript of a hearing before the board shall be paid by the party requesting the transcript.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.2500. Judicial review of board decisions.

- (a) Following the issuance of the findings of fact, conclusions of law and decision by the board including but not limited to suspending or revoking a license or permit, or approving or disapproving and application for an original license or permit or the renewal or transfer of location of an existing license, or application for change of managing officer, or application for change of ownership, or change in management or control of the business under this chapter, the licensee, permittee, applicant, interested party, or the officer 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.
- (b) Nothing contained in this chapter shall preclude the informal disposition of contested cases by stipulation, consent order or default, or by agreed settlement.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.2600. Prerequisites for applicants.

No person shall be granted a license under this chapter unless such person is of good moral character, a qualified legal voter and a tax paying citizen of a county, city, town or village of this state. No corporation or other form of business entity shall be granted a license under this article, unless the managing officer of the proposed licensee is of good moral character, a qualified legal voter and a tax paying citizen of a county, city, town or village

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of the state. No person shall be granted a license whose license as such dealer has been revoked, by the city or the state, or who has been convicted, since the ratification of the Twenty-First Amendment of the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor or malt liquor, or who employs any person whose liquor license has been revoked or who has been convicted of violating the provisions of any such law since the date aforesaid.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.2700. Application, investigation.

No license shall be issued to an applicant until the following conditions have been met and complied with:

- (1) An Application must be made on the forms prescribed and provided by the officer and payment made in a form accepted by the city made payable to the City of Gladstone for the correct amount of the license fee and shall accompany the application.
- (2) In addition to the information described in section 5.110.2600, the applicant shall provide his or her full name, age, residence, place of birth, and if a naturalized citizen, the time and place of naturalization along with the length of time the applicant has resided at the residence stated.
- (3) If the applicant is a corporation or other form of business entity other than a partnership, the application shall set forth all of the information requested with respect to its managing officer, identifying such managing officer and further stating the corporate/business name, the date and state of incorporation, the five largest shareholders with their addresses and percentage of stock held.
- (4) If the application is made by any form of partnership, the application shall set out the names and residences of all the partners, whether they be active or silent partners. All partners shall qualify under the laws of the city and the state for the license. All partners shall sign the application.
- (5) The applicant shall state the exact location of the premises where the applicant proposes to engage in such retail liquor business, including the street address of the premises, the name and address of the owner of record of the premises and proof of the applicant's legal right to possess the premises during the term of the license.
- (6) The applicant shall state the kind of business which the applicant proposes to conduct in such premises, particularly stating the hours which the applicant plans to keep such place open for business.
- (7) No license shall be granted to an applicant unless he/she makes full, true and complete answers to all questions in the application. If any applicant shall make any false or incorrect answer to any question in the application or make any false statement of a material matter, it shall be cause for denial, suspension or revocation of any license issued pursuant to the application. The officer and ~~Chief of Police~~director of public safety shall investigate any fact or issue related to any application or applicant as necessary to enforce the provisions of this chapter.
- (8) Every applicant for a license to sell intoxicating liquor or intoxicating beer at retail or for a license to permit consumption of liquor must attach securely to the application a recent photograph of the individual(s) signing the application and shall submit to complete fingerprints by the ~~Chief of Police~~director.
- (9) Each application shall be submitted to the ~~Chief of Police~~director who, through his or her duly authorized agent(s) or employee(s) shall make an immediate investigation of the statements and information contained in the application, and the safety and sanitary conditions of the premises, and report in writing to the officer the findings of such investigation(s).

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- (10) The applicant shall obtain a permit from the Clay County Health Department evidencing compliance with health regulations at the proposed licensed premises for the intended business operation, and submit a copy of such permit to the officer before serving alcoholic beverages.
 - (11) Every applicant shall submit a copy of his/her tax receipt, for the year immediately preceding the date of the application, of the county, city, town or village where he/she resides in Missouri, or if the applicant is a corporation, a copy of the tax receipt for the year immediately preceding the date of the application of the managing officer of the corporation of the county, city, town or village in Missouri where the managing officer resides.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.2800. Change of facts.

If during the period for which a license is granted there be any change of facts or information differing from that set forth in the original or in any renewal application on file with the officer, a written notice shall be given to the officer with the changed facts or information within ten days after the change.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.2900. Managing officer qualifications.

- (a) Each license holder shall designate a "managing officer" who shall be principally responsible for compliance with the city ordinance provisions relating to sales of alcoholic beverages and liquor control.
- (b) The managing officer of a business organized as a sole proprietorship or partnership shall be the license holder or designated on-site manager of alcoholic beverage sales on the premises.
- (c) The managing officer of a corporation or other form of business entity other than a partnership or sole proprietorship shall be a person in the employ of the corporation or other business entity that holds the license for the premises, and who is vested with the general control and superintendence of a whole, or a particular part of, the business at the particular location to which the license applies, and who is principally responsible for sales of alcoholic beverages on the licensed premises.
 - (1) If a corporation or other form of business entity other than a partnership or sole proprietorship utilizes an attorney, agent, or other person not directly employed at the licensed premises, as managing officer then it shall also designate a deputy managing officer for each licensed location, who shall be employed at that licensed location and directly responsible for liquor sales on the licensed premises.
- (d) If the identity of the managing officer or deputy managing officer changes then the licensee shall designate a new managing officer or deputy managing officer and report the identity of such person to the officer within ten days of the change.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.3000. Issuance of license; expiration date; renewal.

- (a) Provided the officer finds the application complete, the investigation complete and the applicant qualified to receive a liquor license then the officer may issue a license to the applicant permitting the applicant to operate under license for a term expiring on June 30 next succeeding the date of such license unless such license should be suspended, revoked, withdrawn or cancelled before the expiration of such time. The officer may renew or deny the license from year to year thereafter and to issue licenses to the successors or assigns of such person.

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- (b) The officer may place such further conditions upon a new or renewed license, or a license of an establishment that has been reviewed for suspension or revocation, as the officer may deem, in its sole discretion, to be necessary and proper for the promotion of responsible consumption of alcoholic beverages, to combat illegal underage drinking, to address violations of city liquor control ordinances, and to assure the safety and welfare of the citizens of the city.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.3100. Priority of issuance or renewal; conditions therefor.

In the issuance of new licenses or in the renewal of existing licenses, the officer shall give priority to applicants, if there are more applicants than licenses available under this chapter, on the basis of:

- (1) Qualifications and prior experience of the applicant.
- (2) Location and type of business and operation proposed by the applicant.
- (3) A determination as to whether the proposed business can reasonably meet the 50 percent requirement as defined in this chapter.
- (4) The time the application is made to the city.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.3200. Licenses not transferable or assignable; exception; change of ownership or control.

- (a) No license issued under this chapter shall be transferable or assignable except as follows:
- (1) In the event of the death of an individual licensee, the widow, widower, or next of kin of such deceased licensee, may make written application to the officer for transfer of such license to permit the use of the license for the remainder of the license year for which the license fee has been paid. The new applicant must meet all the requirements under this chapter and state law for the issuance of a new license.
 - (2) Whenever one or more members of a partnership license leaves the partnership, for whatever reason, the remaining partner(s) originally licensed may apply to the officer to continue to use the license for the period for which the license fee has been paid.
- (b) No licensee under this chapter shall make any change in its ownership, management or control without first filing with the officer a notice in writing of the licensee's intention to do so, along with an affidavit listing the name and address of the new ownership, management or control. If the proposed change is of the managing officer of the licensee, the officer, upon determination that the proposed new managing officer meets the requirements of this chapter, may approve such change.
- (c) The officer is authorized to establish regulations to implement the authority granted herein to approve changes and transfers made pursuant to this subsection.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.3300. Posting.

All licenses issued under this chapter shall be kept conspicuously posted on the premises for which such license is issued during the period of such license.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.3400. Fees.

- (a) Upon presentation of the application to the officer each applicant shall submit annual fees applicable to the particular class of license requested, as follows:

Class A(1)	\$ 150.00
Class A(2)	22.50
Class A(3)	50.00
Class A(4)	52.50
Class A(5)	450.00
Class A(6)	450.00
Class A(7)	500.00
Class A(8)	1,000.00
Class A(9)	450.00
Class B(1)	300.00
Class C(1)	25.00
Class C(2)	15.00
Class C(3)	10.00 per day
Class C(4)	15.00 per day
Class D(1)	25.00
Class E(1)	7.50 for each 100 barrels or fraction thereof, up to a maximum fee of \$375.00.

- (b) All license fees collected by the city collector shall be accounted for and paid into the city treasury. If the license is for less than one year, the fee shall be one-twelfth of the annual fee for each month, or fraction thereof, remaining in the licensed year. A fee of \$12.50 shall be charged for any transfer or assignment of a license. If the license is a probationary license the fee shall be one-half the amount of the fee for such license classification.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.3500. License required for each licensed premise; limitation on number of licenses per person.

- (a) A license shall be required for each location where a business is operated under this chapter, whether in the same building or not.
- (b) No person or business entity shall be issued more than five licenses for any classification or combinations of classifications under this chapter.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.3600. Number of licenses to be granted for each classification.

- (a) The number of licenses for the sale of all intoxicating liquor or malt liquor by the drink and in the original package are limited by class as follows:

Class A(1)	7
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Class A(2)	5
Class A(3)	5
Class A(4)	5
Class A(5)	10
Class A(6)	30
Class B(1)	40

- (b) The number of licenses designated for classes A(1), (2), (3), and (4) under this subsection shall not include license holders whose primary business at the licensed premises is other than the sale of intoxicating liquor or malt liquor. For purposes of classes A(1), (2), (3), and (4) of this subsection, a business is primarily for other than the sale of intoxicating liquor or malt liquor if 60 percent or more of the gross income of such business is derived from the sale of food, products, goods, items, activities, or services other than intoxicating liquor, malt liquor or wine.

(Ord. No. 4.284, § 2, 8-25-2014; Ord. No. 4.324, § 1, 9-28-2015; Ord. No. 4.395, § 2, 8-28-2017)

Sec. 5.110.3700. Fifty percent rule defined; further qualifications for Class D licenses.

- (a) Licenses permitting patrons under 21 years of age upon Class D licensed premises may be issued to applicants who meet the following qualifications:
- (1) Premises for which a Class D license is sought shall be exactly the same as those premises covered by an existing retail sale of intoxicating liquor by the drink license under Class A(3), or (4), or (5), or (6) and the description of the premises on each license shall be identical.
 - (2) Applicants for a Class D license shall furnish with the application a certified statement, on a form provided by the officer, signed by the applicant showing that at least 50 percent of the gross income of the business for the past one year immediately preceding the application was derived from the sale of food, products, goods, items, activities, or services or a certified statement signed by the applicant showing an annual gross income of at least \$200,000.00 from the sale of food, products, goods, items, activities, or services other than the sale of intoxicating liquor.
 - (3) Applicants who have not been in business one year shall have been in business at least 90 days immediately preceding application for a Class D license and shall furnish a certified statement signed by the applicant showing at least 50 percent of gross income of the business during the total period of time that it has been in business was derived from the sale of food, products, goods, items, activities, or services other than the sale of intoxicating liquor or a certified statement signed by the applicant showing that a projected experience based upon its nonintoxicating liquor sales during the preceding 90 days would exceed not less than \$200,000.00 per year.
- (b) Renewal applications for Class D licenses shall be accompanied by a certified statement signed by the licensee showing that at least 50 percent of the gross income of the business for the past one year immediately preceding the date of the renewal application was derived from the sale of food, products, goods, items, activities, or services other than the sale of intoxicating liquor or a certified statement signed by the applicant showing that the business' annual gross sales of food, products, goods, items, activities, or services other than the sale of intoxicating liquor immediately preceding the date of the renewal application was not less than \$200,000.00 per year.
- (c) Applicants for a Class D license shall prepare and maintain the following records in order to substantiate the sales figures as presented in the certified statement, including, but not limited to: prenumbered guest checks, cash register tapes, bank statements, cancelled checks, purchase orders, bills of lading, purchase invoices for all products purchased and sold by the business and bank deposit records.

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- (d) Upon request of the officer any applicant or licensee shall produce for inspection and copying those records described in subsection (c) and such other records as may be requested by the officer from time to time. If in the reasonable discretion of the officer such records or documentation do not establish the applicant's/licensee's qualifications to hold a Class D license, the officer may, upon notice to the applicant or licensee as provided in section 5.110.2300, not grant the requested license or suspend or revoke an existing license.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.3800. Alcoholic beverages to be kept under cover.

All persons holding in intoxicating liquor or malt liquor original package sales license under this chapter, whose places of business remain open upon the days and at the hours when the sale of alcoholic beverages are prohibited by law, shall, at all times upon such days and at such hours, keep all intoxicating liquor or malt liquor under cover in such a manner that such beverage stocks cannot be removed with being uncovered.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.3900. Employee permits.

- (a) All persons employed in the retail sale by the drink of alcoholic beverages must procure a permit to do so. To procure such a permit, each applicant must be fingerprinted by the ~~Chief of Police~~~~director~~, and furnish to the ~~Chief of Police~~~~director~~ an identifying photograph, in duplicate, complete an application form, and prove himself/herself to be a person of good moral character. On application, each applicant shall pay the sum of \$15.00 and shall be given a temporary card which will be good for a period of not less than 30 days and may be extended to cover the period of time necessary for detailed investigation. On or before the expiration date of such temporary card, if the applicant meets the applicable requirements of the city and state, then such applicant will be given a permit card good for three years from the date of the original application.
- (b) Upon the expiration of the permit card, the applicant may procure a new permit card in the same manner as before except no fingerprints will be required when and if a set of classified prints of the applicant are in the files of the ~~Chief of Police~~~~director~~. All permit cards shall bear a description of the applicant, thumbprint and photograph and shall be laminated to prevent alteration.
- (c) If any permitted employee shall be found guilty of violating or contributing to the violation of any of the provisions of this chapter, or is convicted of any crime, such employee's permit card shall be subject to suspension or revocation; provided such permitted employee shall be given a hearing in the same manner as other license holders under this chapter.
- (d) It shall be unlawful for any licensee of any retail establishment to have in such licensee's employ, for the purpose of selling or assisting in the sale or delivery of alcoholic beverages, any person who does not have a permit card.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.4000. Summary to council.

In August of each year the officer shall report to the city council a summary of all actions taken by the officer under the authority derived from this chapter including but not necessarily limited to the following:

- (1) The number and classification of each license or permit granted under section 5.110.2000.
- (2) Any non-renewal, suspension or revocation of licenses or permits.

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- (3) Violations of chapter 110.
 - (4) All actions appealed to the board and any corresponding board determinations.
 - (5) Any recommendations for amending the liquor ordinance.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.4100. Adult entertainment; exception.

- (a) It shall be unlawful for any retail licensee or such licensee's employee to permit in or upon the licensee's licensed premises adult entertainment as defined in chapter 115 of this title, unless the licensing requirements of chapter 115 have been met.
- (b) Subsection (a) herein does not apply to section 5.115.090(5)e. because such subsection prohibits the sale or consumption of alcohol on such premises described therein.

(Ord. No. 4.284, § 2, 8-25-2014)

Sec. 5.110.4200. Penalty for violation.

It shall be unlawful to violate any provision of this chapter. Any violation of this chapter or any other city code provision relating to licensing and sale of alcoholic beverages shall be grounds for denial, suspension or revocation of any permit or license. Violations of this chapter are misdemeanors and upon conviction are punishable by a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both such fine and imprisonment. Every day during which a violation occurs shall be deemed a separate offense.

(Ord. No. 4.284, § 2, 8-25-2014)

CHAPTER 115. ADULT ENTERTAINMENT

Sec. 5.115.010. 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:

Adult business.

- (1) Any business enterprise:
 - a. That has as a regular and substantial business purpose the sale, display or rental of goods that are designed for use in connection with specified sexual activities, or that emphasize matters depicting, describing or relating to specified sexual activities or specified anatomical areas; or
 - b. That has one of the following as a regular and substantial business purpose:
 - 1. The providing of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display specified anatomical areas or specified sexual activities; or
 - 2. The providing of services that provide specified sexual activities or specified anatomical areas ancillary to other pursuits, or allow participation in specified sexual activities ancillary to other pursuits.

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- (2) The definition of "adult business" also includes, but is not limited to, any and all of the following, as defined in this subsection:
- a. Businesses that offer the following described goods for sale or rent:
 - 1. *Adult retail establishments* means an establishment which as a regular and substantial business purpose offers for sale or rent any one or more of the following: instruments, devices, gifts or paraphernalia which are designed for use in connection with specified sexual activities or clothing that graphically depicts specified anatomical areas or any of the materials sold or rented in an adult bookstore as defined in this section.
 - 2. *Adult bookstore* means an establishment which as a regular and substantial business purpose offers for sale or rent books, magazines, periodicals or other printed matter, photographs, slides, films or videotapes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
 - 3. *Adult media outlet* means an establishment that has as a regular and substantial business purpose the rental, sale or offering for viewing off the premises or other use of any adult media.
 - 4. *Adult newsrack* means any coin- or card-operated device that offers for sale by dispensing printed material, which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
 - 5. *Adult newsstand* means a freestanding structure, vehicle or booth which as a regular and substantial business purpose offers for sale books, magazines, periodicals or other printed matter, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
 - b. Businesses that provide the following entertainment:
 - 1. *Adult entertainment business* means any enterprise to which the public, patrons or members are invited or admitted, and where providing "adult entertainment," as defined in this section, is a regular and substantial portion of its business.
 - 2. *Adult motion picture theater* means an establishment containing a room with seats facing a screen or projection areas, where a regular and substantial portion of its business is the exhibition to customers of films, videotapes, or motion pictures which are intended to provide sexual stimulation or sexual gratification to the customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
 - 3. *Adult theater* means an establishment located in an enclosed building where a regular and substantial portion of its business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas or live performers, for observation by customers and patrons.
 - 4. *Adult entertainment cabaret* means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female impersonators, go-go dancers, or live performances; or material which is primarily characterized by an emphasis on specified sexual activities or specified anatomical areas.
 - 5. *Adult entertainment studio (includes the terms rap studio, exotic dance studio, sensitivity studio or encounter studio)* means an establishment the premises of which are physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business

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is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to specified sexual activities or the exhibition of specified anatomical areas.

6. *Adult encounter parlor* means an establishment where a regular and substantial portion of its business is the provision of premises where customers congregate, associate, or consort with employees and/or performers or private contractors who display specified anatomical areas in the presence of such customers, with the intent of providing sexual gratification or stimulation to such customers.
7. *Body painting studio* means an establishment where a regular and substantial portion of its business is the maintaining, operating, or offering for compensation the applying of paint or other substance to or on the human body by any means of application, technique or process when the subject's body is displaying for the customers view specified anatomical areas.

c. Businesses that provide the following described services:

1. *Bathhouse* means an enterprise where a regular and substantial portion of its business is offering baths with other persons present who are nude or displaying specified anatomical areas.
2. *Adult motel* means an enterprise where a regular and substantial portion of its business is offering public accommodations for consideration for the purpose of viewing closed circuit television transmissions, films, motions pictures, videocassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas and rents room accommodations for less than six hours at a time.

Adult entertainment means any live exhibition, performance, display or dance of any type, including but not limited to talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernibly erect state, even if completely and opaquely covered.

Contagious and communicable diseases means those diseases which are set out in the code of state regulations (CSR) established by the state.

Employee means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to, the operation of an adult business.

Entertainer means any person who provides adult entertainment within an adult entertainment business as defined in this section, whether or not a fee is charged or accepted for entertainment.

Manager means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity at an adult business.

Operator means any person operating, conducting or maintaining an adult business.

Person means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

Premises means any place of business of an adult business which shall include the entire lot and building occupied by the adult business and any other property owned, leased or controlled by the adult business including

any parking areas adjacent to the business which are regularly utilized by employees, entertainers, servers, managers or customers of such business.

Public place means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

Server means any person who serves food or drink at an adult business.

Specified anatomical areas means uncovered or exposed human genitals, pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola encircling the nipple, or any combination of the foregoing; or human male genitals in a discernibly erect state, even if completely and opaquely covered.

Specified sexual activities means sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

Substantial business purpose means (i) 33 percent or more of the gross floor space is devoted to that purpose; (ii) 33 percent or more of the retail floor space is devoted to that purpose; or (iii) 33 percent or more of the gross sales of the business are derived from that purpose.

(Ord. No. 3.350, § 3, 1-24-1994; Ord. No. 3.353, § 1, 2-14-1994)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 5.115.020. License required for adult business.

- (a) It shall be unlawful for any person to operate or maintain an adult business in the city unless the owner, operator or lessee thereof has obtained an adult business license from the city, or to operate such business after such license has been revoked or suspended by the city.
- (b) It is unlawful for any entertainer, server, employee, manager, operator or owner to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult business.
- (c) It shall be prima facie evidence that any adult business that fails to have posted an adult business license, in the manner required by this section, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, server, employee, manager, operator or owner who performs any business, service or entertainment in an adult business, in which an adult business license is not posted, in the manner required by this section, had knowledge that such business was not licensed.
- (d) Any business enterprise that sells or rents goods that are designed for use in connection with specified sexual activities, or that emphasizes matters depicting, describing or relating to specified sexual activities or specified anatomical areas and that excludes minors by virtue of age from all or any part of the business premises shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate city officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is an "adult business" as defined in this chapter. This entry and inspection shall take place during hours when such adult business is open to the public, unless otherwise requested by the adult business, and shall not unreasonably interfere with the conduct of such business.

(Ord. No. 3.350, § 4, 1-24-1994)

Sec. 5.115.030. License required for managers, servers and entertainers.

It is unlawful for any person to work as an entertainer, server or manager at an adult business without first obtaining a license to do so from the city, or to work as an entertainer, server or manager at an adult business after such person's license to do so has been revoked or suspended.

(Ord. No. 3.350, § 5, 1-24-1994)

Sec. 5.115.040. License, classification and fees.

- (a) The license year for all fees required under this chapter shall be from each July 1 through June 30. The application for a license shall be accompanied by payment in full of the fee stated in this section by certified or cashier's check or money order; and no application shall be considered complete until such fee is paid.
- (b) All licenses shall be issued for a specific location and shall be nonrefundable and nontransferable.
- (c) The classification of licenses and fees for each shall be as follows:
 - (1) Adult business license fee is \$300.00 per year;
 - (2) Manager's license fee is \$20.00 per year;
 - (3) Entertainer's license fee is \$20.00 per year;
 - (4) Server's license fee is \$20.00 per year.

(Ord. No. 3.350, § 6, 1-24-1994)

Sec. 5.115.050. License limited to one identifiable type of adult use.

All adult business licenses shall be issued for only one adult business use per premises which shall be listed on the application. More than one adult business use shall not be allowed on premises. Any change in the type of adult use shall invalidate the adult business license.

(Ord. No. 3.350, § 7, 1-24-1994; Ord. No. 3.353, § 1, 2-14-1994)

Sec. 5.115.060. License application.

- (a) *Adult business license.* All persons desiring to secure a license to operate an adult business under the provisions of this chapter shall make a notarized application with the city clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the adult business. All applications shall be submitted on a form supplied by the city clerk and shall require the following information:
 - (1) The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.
 - (2) The name of the adult business, a description of the type of business to be performed on the licensed premises, and the name of the owner of the premises where the adult business will be located.
 - (3) The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers and directors and stockholders who own ten percent or greater interest in the corporation.
 - (4) The residence addresses of the applicant, or of all partners, or of all corporate officers and directors for the five years immediately prior to the date of application.

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- (5) A description of the adult business history of the applicant, or of the partnership and all partners, or of the corporation and all corporate officers and directors.
 - (6) A statement from the applicant, or from all partners, or from all such corporate officers and directors, whether any such person or entity, in previously operating in this or another city, county or state, has had a business license of any type revoked or suspended, and if so, the reason therefor, and the activity or occupation subjected to such action, suspension or revocation;
 - (7) A statement of the business, occupation or employment of the applicant, or of all partners, or of all corporate officers and directors for the three years immediately preceding the date of the application.
 - (8) A statement from the applicant, or from each partner, or from each corporate officer and director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
 - a. Any felony within five years immediately preceding the application; or
 - b. A misdemeanor criminal act within two years immediately preceding the application;where such felony or misdemeanor involved sexual offenses, prostitution, promotion of prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses as defined in the state criminal code (RSMo ch. 556), or involved controlled substances or illegal drugs or narcotics offenses as defined in the state controlled substances act (RSMo ch. 195) or other statutes of the state or ordinances of the city. The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.
 - (9) On applications requesting a license to operate a bathhouse or body painting studio, the applicant shall provide for each person working on the premises a health certificate from a duly licensed state physician stating that within 90 days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease as defined in this chapter.
 - (10) A full set of fingerprints and a photograph, to be taken by the ~~police~~public safety department, of the applicant, or of all partners if the applicant is a partnership, or of all such corporate officers and directors if the applicant is a corporation.
 - (11) If the applicant is a corporation, a current certificate of registration issued by the state secretary of state.
 - (12) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this chapter regulating adult businesses.

Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed.

- (b) *Manager, server or entertainer license.* All persons desiring to secure a license under the provisions of this chapter to be a manager, server or entertainer shall make a notarized application with the city clerk. All applications shall be submitted in the name of the person proposing to be a manager, server or entertainer. All applications shall be submitted on a form supplied by the city clerk and shall require the following information:
 - (1) The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining or at the business.

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- (2) The name and address of each adult business where the applicant intends to work as a manager, server or entertainer, and an "intent to hire" statement from an adult business that is licensed, or that has applied for a license, under the provisions of this chapter, indicating the adult business intends to hire the applicant to manage, serve or entertain on the premises. Failure to provide an "intent to hire" statement shall not invalidate the application.
- (3) A statement from the applicant that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
- A felony within five years immediately preceding the application; or
 - A misdemeanor within two years immediately preceding the application;
- where such felony or misdemeanor involved sexual offenses, prostitution, promotion of prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses as defined in the state criminal code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the state controlled substances act or other statutes of the state or ordinances of the city. The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.
- (4) A full set of fingerprints and a photograph of the applicant to be taken by the ~~police~~public safety department.
- (5) The applicant shall present to the city clerk who shall copy documentation that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
- A valid motor vehicle operator's license issued by any state, bearing this applicant's photograph and date of birth;
 - A state-issued identification card bearing the applicant's photograph and date of birth;
 - An official and valid passport issued by the United States of America;
 - An immigration card issued by the United States of America;
 - Any other form of picture identification issued by a governmental entity that is deemed reliable by the city clerk; or
 - Any other form of identification deemed reliable by the city clerk.

Failure to provide the information required by this subsection shall constitute an incomplete application and shall not be processed.

- (c) *Facilities necessary.* No adult business license to conduct a bathhouse or body painting studio shall be issued unless an inspection by the director, the county health department, or the director's authorized representative reveals that the premises the applicant intends to conduct business from complies with each of the following minimum requirements:
- (1) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried

on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.

- (2) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.
- (3) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap in a dispenser and with sanitary towels. The director of the county health department, or the director's representative, shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the city clerk. Provided, however, that nothing contained in this subsection shall be construed neither to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate city official may recommend the issuance of a license contingent upon the compliance with any requirements in this section.

- (d) *Application processing.* Upon receipt of a complete application for an adult business, manager, server or entertainer license, the city clerk shall immediately transmit one copy of the application to the ~~director of public safety~~ Chief of Police for investigation of the application. In addition, the city clerk shall transmit a copy of the application to the director of community services. It shall be the duty of the ~~director of public safety or the director's~~ Chief of Police or their designee to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The ~~Chief of Police~~ director of public safety shall report the results of the investigation to the city clerk not later than ten working days from the date the application is received by the city clerk. It shall be the duty of the director of community services to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the city. The director of community services shall report the results of the investigation to the city clerk not later than ten working days from the date the application is received by the city clerk. Upon receipt of the reports from the ~~Chief of Police~~ director of public safety and director of community services, the city clerk shall submit to the city manager for consideration, provided the license application for an adult business, manager, server or entertainer license shall be approved or disapproved within 45 days from the date of filing of a completed application with the city clerk's office.

(Ord. No. 3.350, § 8, 1-24-1994)

Sec. 5.115.070. Examination of application, issuance of license, and disapproval.

- (a) If the application for an adult business, manager, server or entertainer license is in proper form and accompanied by the appropriate license fee, the city manager shall examine the application, and after such examination, the city manager shall, if the applicant is qualified, approve a license as provided for by law, provided a license shall not be approved to any person ineligible pursuant to section 5.115.080.
- (b) The record of the city manager shall show the action taken on the application, and if the license is granted, the city manager shall direct the city clerk to issue the proper license. The license shall state that it is not transferable to other persons or entities and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working.
- (c) If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such

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disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

(Ord. No. 3.350, § 9, 1-24-1994)

Sec. 5.115.080. License ineligibility and disqualification.

No person is eligible nor shall a license be issued to:

- (1) An adult business applicant if one or more of the following conditions exist:
 - a. The applicant's premises is located within 1,000 feet of any school, church, public park, licensed child care center or licensed child care home. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of such school, church, public park, licensed day care center, or licensed child care home;
 - b. The applicant's premises is located within 1,000 feet of any other adult business for which there is a license issued. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of such other adult business;
 - c. The applicant's premises is located within 150 feet of any residentially zoned property. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of the residentially zoned property.
 - d. In the case of an application for an adult business license for a business use defined in this chapter as an adult entertainment business, adult motion picture theater, adult entertainment cabaret, adult entertainment studio, adult encounter parlor, body painting studio, bathhouse or adult motel, the applicant's premises is located within 300 feet of any residentially zoned property. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of the residentially zoned property.
 - e. The applicant failed to supply all of the information requested on the application;
 - f. The applicant gave materially false, fraudulent or untruthful information on the application;
 - g. The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the city, provided that upon a showing that the premises meets such requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the city manager;
 - h. The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in section 5.115.060 during the time period set forth in such section;
 - i. The applicant has had an adult business or comparable license revoked or suspended in this or any other city during the past five years;
 - j. If the applicant is applying for a license to operate a bathhouse or body painting studio and has not produced a health certificate as required in this chapter for all persons working on the premises.
- (2) An applicant for a manager, server or entertainer if one or more of the following conditions exist:

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- a. The employer for whom the applicant intends to work does not have or is ineligible to receive an adult business license for any of the reasons stated in subsection (a) of this section;
 - b. The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in section 5.115.060 during the time period set forth in such section;
 - c. The applicant failed to provide all of the information required on the application;
 - d. The applicant gave materially false, fraudulent or untruthful information on the application;
 - e. The applicant has had a manager, server, entertainer or comparable license revoked or suspended in this or any other city during the past five years.

(Ord. No. 3.350, § 10, 1-24-1994)

Sec. 5.115.090. Standards of conduct.

The following standards of conduct shall be adhered to by all adult business licensees, their employees and all managers, servers and entertainers and patrons of adult businesses, while on or about the premises of the business:

- (1) *Identification cards.* All or any manager, server or entertainer issued a license by the city under the provisions of this chapter shall, at all times when working in an establishment subject to the provisions of this chapter, have in their possession a valid identification card issued by the city, bearing the permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration.
- (2) *Age restriction.* Only persons 18 years of age or older shall be permitted on the premises of any adult business.
- (3) *Exterior observation and display.* No adult business will be conducted in any manner that permits the observation or display of performers servers, or entertainers engaged in an erotic depiction or dance or any material or persons, caricatures, animals, or any portion thereof depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this chapter, or any books, cards, magazines, periodicals or other printed matter, photographs, slides, films, motion pictures, or videotapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas from any exterior source including, but not limited to, by display, decoration, sign, show window or other opening.
- (4) *Nudity prohibited.* No manager, employee, server, entertainer or patron in an adult business, other than a licensed bathhouse, shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any specified anatomical area.
- (5) *Certain acts prohibited.*
 - a. No manager, employee, server, entertainer or patron shall perform any specified sexual activities as defined in this chapter, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities as defined in this chapter, or participate in any act of prostitution.
 - b. No manager, employee, server, entertainer or patron of an adult business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such manager, employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.

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- c. No manager, employee, server or entertainer of an adult business shall be visible from the exterior of the adult business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.
 - d. No entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this chapter and no entertainer shall receive any payment or gratuity from any customer for any entertainment except as follows:
 - 1. While such entertainer is on the stage or platform, a customer or patron may place such payment or gratuity into a box affixed to the stage; or
 - 2. While such entertainer is not on the stage or platform and is clothed so as to not expose to view any specified anatomical area, a customer or patron may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four inches below the bottom of the pubic region.
 - e. No owner, operator, manager or other person in charge of the premises of an adult premises shall:
 - 1. Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises, unless otherwise permitted pursuant to chapter 110 of this title;
 - 2. Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;
 - 3. Knowingly allow or permit any person under the age of 18 years of age to be in or upon the premises;
 - 4. Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises; or
 - 5. Knowingly allow or permit a violation of this chapter or any other city ordinance provision or state law.
- (6) *Signs required.* All adult businesses shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, on which uppercase letters shall be at least two inches high, and lowercase letters at least one inch high, which shall read as follows:

THIS ADULT BUSINESS IS
REGULATED AND LICENSED
BY THE CITY OF GLADSTONE

ENTERTAINERS ARE:

- * Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of such entertainer.
- * Not permitted to be nude, unclothed, or in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and or genitals.
- * Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:
 - While such entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage; or

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- While such entertainer is not on the stage, by either placing such payment or gratuity into the entertainer's hand, or under the entertainer's leg garter.

CUSTOMERS ARE:

- * Not permitted to be upon the stage at any time.
 - * Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.
- (7) *Lighting required.* The interior premises of all adult businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises. The exterior premises of all adult business shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination equivalent to not less than one footcandle in all parking areas and on the general grounds of the premises as measured at the ground level and there shall be illumination to the equivalent of not less than five footcandles as measured at the ground level at each entrance and doorway area, and such illumination must be maintained at all times that any customer or patron is present on the premises.
- (8) *Closed booths or rooms prohibited.* The premises of all adult businesses shall be physically arranged in such manner that the entire interior portions of the premises and of any booths, cubicles, rooms or stalls is visible from a common area of the business. The use of video cameras to meet this requirement is not allowed. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever. The manager shall be required to be positioned so as to be able to view the entire interior portion of the premises while on duty. Only one person shall be allowed in any booth, cubicle or stall at a time. Such booths, cubicles or stalls shall be constructed out of metal or such other material that is incapable of perforation by any customer, employee, entertainer, server or manager on the premises. Other than the entryways there shall be no openings, holes, access doors or any other manner of accessibility between any booth, cubicle, room or stall and any other booth, cubicle, room or stall.
- (9) *Ventilation and sanitation requirements.* The premises of all adult businesses shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.
- (10) *Hours of operation.* No adult business may be open or in use between the hours of 1:30 a.m. and 10:00 a.m. on any day other than a Sunday when the business may not be open between the hours of 1:30 a.m. and 12:00 noon.

(Ord. No. 3.350, § 11, 1-24-1994; Ord. No. 3.353, § 1, 2-14-1994)

Sec. 5.115.100. Posting or display of license.

- (a) Every person, corporation, partnership, or association licensed under this chapter as an adult business shall post such license in a conspicuous place and manner on the adult business premises.
- (b) Every person holding a server, manager or entertainer license shall post their license in their work area on the adult business premises so it shall be readily available for inspection by city authorities responsible for enforcement of this chapter.

(Ord. No. 3.350, § 12, 1-24-1994)

Sec. 5.115.110. Manager on premises.

- (a) A manager shall be on duty at any adult business at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours.
- (b) It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid adult entertainer's license or an adult entertainment servers license and that such licenses are prominently posted.
- (c) It shall be the responsibility of the manager to insure persons under the age of 18 do not enter upon the premises.

(Ord. No. 3.350, § 13, 1-24-1994)

Sec. 5.115.120. Inspector and inspections.

All adult businesses shall permit representatives of the ~~department of public safety~~ Police and/or Fire Department or any other city official acting in their official capacity to inspect the premises as necessary to ensure the business is complying with all applicable regulations and laws.

(Ord. No. 3.350, § 14, 1-24-1994)

Sec. 5.115.130. Suspension, revocation, or nonrenewal of license.

Whenever the city clerk has information that:

- (1) The owner or operator of an adult business or a holder of a manager, server or entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this chapter;
- (2) There have been recurrent violations of provisions of this chapter that have occurred under such circumstances that the owner or operator of an adult business knew or should have known that such violations were committed;
- (3) The adult business license or the manager, server or entertainer license was obtained through false statements in the application for such license, or renewal thereof;
- (4) The adult business licensee or the manager, server or entertainer licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof;
- (5) The owner or operator, or any partner, or any corporate officer or director holding an adult business license has become disqualified from having a license by a conviction as provided in section 5.115.080; or
- (6) The holder of a manager, server or entertainer license has become disqualified from having a license by a conviction as provided in section 5.115.080;

then the city clerk shall make this information known to the city council, which upon five days written notice to the person holding the license shall conduct a public hearing to determine whether the license should be suspended or revoked. The city council may pass a resolution setting forth the procedures for the conduct of such hearings.

Based on the evidence produced at the hearing, the city council may take any of the following actions:

- a. Suspend the license for up to 90 days.
- b. Revoke the license for the remainder of the license year.

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- c. Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of the chapter occur during the period of probation. If a further violation does occur and after a hearing the additional violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

(Ord. No. 3.350, § 15, 1-24-1994)

Sec. 5.115.140. Renewal.

- (a) A license may be renewed by making application to the city clerk on application forms provided for that purpose. Licenses shall expire on June 30 of each calendar year, and renewal applications for such licenses shall be submitted between June 15 and June 30.
- (b) Upon timely application and review as provided for a new license, a license issued under the provisions of this chapter shall be renewed by issuance of a new license in the manner provided in this chapter.
- (c) If the application for renewal of a license is not made during the time provided in subsection (a) of this section, the expiration of such license shall not be affected, and a new application shall be required.

(Ord. No. 3.350, § 16, 1-24-1994)

Sec. 5.115.150. Judicial review; stay of enforcement of orders.

Following the entry of an order by the city council, suspending or revoking a license issued pursuant to this chapter, or the city manager disapproving the renewal application for a license, such licensee or applicant may seek judicial review in a manner provided by law. The city council may stay enforcement of such order for a period of time not to exceed 30 days pending the filing and/or final disposition of proceedings for judicial review.

(Ord. No. 3.350, § 17, 1-24-1994)

Sec. 5.115.160. Penalty.

It shall be unlawful for any person to violate any of the provisions of this chapter. Upon conviction thereof, such person shall be punished by a fine not to exceed \$500.00, or be punished by incarceration for a period not to exceed 90 days, or by both such fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this chapter shall constitute a separate and distinct offense.

(Ord. No. 3.350, § 18, 1-24-1994)

Sec. 5.115.170. Regulations by city clerk.

The city clerk shall have the power to promulgate regulations, as may be necessary and feasible for the carrying out of the duties of the city clerk's office and which are not inconsistent with the provisions of this chapter.

(Ord. No. 3.350, § 19, 1-24-1994)

CHAPTER 120. AMUSEMENTS AND ENTERTAINMENTS³⁸

- CODE OF ORDINANCES
Title V - BUSINESS AND OCCUPATIONS
CHAPTER 120. AMUSEMENTS AND ENTERTAINMENTS

³⁸State law reference(s)—Authority to license and regulate shows and amusements, RSMo 94.110.

ARTICLE 1. IN GENERAL

Sec. 5.120.010. Definitions.

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

Admission charge means any charge for the right or privilege to any amusement or entertainment, or admission to or entry to any area or facility where such amusement or entertainment is conducted.

Amusement or entertainment means carnivals, circuses and side shows for which an admission charge is made.

Civic organization means any nonprofit organization, organized for civic, charitable, benevolent or religious purposes. Political organizations are expressly excluded from being within the definition of such term.

(Code 1974, § 4-1)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 5.120.020. Permit—Required; issuance to civic organizations.

A permit must be obtained in order to conduct any amusement or entertainment within the limits of the city. Only a civic organization shall be issued a permit to operate any amusement or entertainment for which an admission charge is made, and no civic organization shall conduct any amusement or entertainment within the limits of the city without complying with the requirements of this chapter and without having first obtained a permit as provided for in this section.

(Code 1974, § 4-2)

Sec. 5.120.030. Same—Application; indemnification of city; insurance; issuance.

- (a) Every person proposing to conduct or engage in any amusement or entertainment, or a duly elected officer of any corporation or organization proposing to conduct such amusement or entertainment, shall apply in writing to the city clerk for a permit on behalf of such person, and shall complete an application form as may be established by the city manager, and shall obtain an occupation license as otherwise provided by law.
- (b) No permit shall be issued to conduct an amusement or entertainment until the city manager has determined that the proposed location for the conduct of such amusement or entertainment complies with the zoning ordinance of the city (title VII).
- (c) All applicants shall state on their applications that they will indemnify the city for any claim resulting from the operation of the amusement or entertainment and each application shall be accompanied by a certificate of insurance, showing the city as the named insured, covering any damage or liability to the city which may be caused by the operation of the amusement or entertainment with limits conforming to the city's statutory limits for governmental immunity.

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- (d) The city manager may refuse to issue a permit to any amusement or entertainment, the operation of which does not comply with this chapter, or which has in any previous operation in any other city, or in this city, violated the ordinances or requirements of such other city, or of this city.
 - (e) Upon determination that the proposed amusement or entertainment shall comply with this chapter, the city manager shall issue a permit and shall notify the applicant.

(Code 1974, § 4-3)

Sec. 5.120.040. Same—Revocation.

Any permit issued pursuant to this chapter may be revoked by the city manager upon the city manager's determination that the amusement or entertainment is being operated or conducted in violation of this chapter, or in violation of rules and regulations established and promulgated pursuant thereto, or is so conducted or operated as to endanger substantially the public peace, health, safety and welfare of the citizens of the city.

(Code 1974, § 4-4)

Sec. 5.120.050. Rules and regulations for operation generally.

Any amusement or entertainment conducted pursuant to this chapter shall comply with the following rules:

- (1) Hours of operation shall be limited from 1:00 p.m. to 10:00 p.m. Sundays through Thursdays, and from 12:30 p.m. to 11:00 p.m. on Fridays, Saturdays and holidays.
- (2) Adequate restroom facilities for both sexes shall be provided on the premises of such amusement or entertainment. Such facilities may be of a temporary nature.
- (3) All electrical wiring and lighting must be approved by the city engineer.
- (4) Adequate facilities for the disposal of trash and debris shall be provided on the premises.
- (5) The premises shall be inspected prior to operation by the ~~director of public safety~~ Chief of Police and/or Fire Chief to determine that the requirements of this chapter and any other ordinance of the city applicable to public rooms and buildings have been complied with.
- (6) The area or premises where such amusement or entertainment is conducted shall be cleaned and policed after the cessation of such amusement or entertainment and all trash, litter and debris shall be removed.

(Code 1974, § 4-5)

Sec. 5.120.060. Promulgation of additional rules and regulations.

The city manager is hereby given authority to establish and promulgate rules and regulations consistent with the terms of this chapter and with the laws of the city, for the purpose of carrying out and enforcing compliance therewith, and a copy of such rules and regulations shall be on file and available for public examination in the office of the city clerk. Failure or refusal to comply with any such rules and regulations established and promulgated under this section shall be deemed a violation of this chapter.

(Code 1974, § 4-6)

ARTICLE 2. COIN-OPERATED AMUSEMENT DEVICES

Sec. 5.120.070. 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:

Coin-operated amusement device means pinball machines, video game machines, marble machines, miniature pool machines and other devices operated by the insertion of a coin, disk or other insertion piece, whether or not also manipulated by the operator, and which are operated for the amusement or entertainment of the operator or participants thereon regardless of whether a score is registered. It shall not include slot machines, claw machines or any other machine or device prohibited by state law.

Distributor means any owner of a vending machine or coin-operated amusement device who sells, leases, rents or otherwise distributes any such vending machine or coin-operated amusement device to exhibitors for operation within the city.

Exhibitor means any person who exhibits or maintains for operation one or more coin-operated amusement devices within the city, whether owned by the exhibitor, a distributor or any other person.

(Code 1974, § 17-59)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 5.120.080. License.

It shall be unlawful for any distributor, exhibitor or other person to engage in the business of selling, leasing, renting, operating or exhibiting a coin-operated amusement device (when such device is located in a place of amusement, entertainment or recreation) within the city without first obtaining a license therefor from the city collector and complying with all requirements of this article.

(Code 1974, § 17-60; Ord. No. 4.337, § 1, 2-8-2016)

Sec. 5.120.090. Application for license.

- (a) The owner, distributor or exhibitor of each coin-operated amusement device which is required to be licensed pursuant to the terms of this article shall, within ten days of the delivery or installation of such machine or device in the city, complete an application for license for each such machine or device. Such application for license shall be made to the office of the city collector and shall require, at a minimum, the following information:
 - (1) The name of the manufacturer of the machine or device, the model number or description and the serial or other identifying number for each machine or device.
 - (2) The name, address and telephone number of the owner of each coin-operated amusement device.
 - (3) The name, address and telephone number of the premises where each such coin-operated amusement device is located within the city.
 - (4) Such other information as reasonably may be required by the city collector for the purpose of enforcement of this article.
- (b) The license application and renewal therefor shall be on a form adopted by the city manager and shall be accompanied by the fee required by this article.
- (c) The license fee levied on each such machine or device shall be \$25.00 per year.

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- (d) Upon the submission of the completed application for license and remittance of the necessary license fee to the city collector, the city collector shall issue to the applicant a license for each coin-operated amusement device.

(Code 1974, § 17-61; Ord. No. 4.337, § 2, 2-8-2016)

Sec. 5.120.100. Display of license.

Each coin-operated amusement device which has been duly licensed shall have affixed to it the license for that coin-operated amusement device so that the certificate shall be visible at all times.

(Code 1974, § 17-62)

Sec. 5.120.110. Transfer of license.

Upon notification to the city collector of the intention of a distributor, exhibitor or other person to replace a licensed coin-operated amusement device with a similar machine or device and upon providing the information required in subsection 5.120.090(a), the license may be transferred to the substituted machine or device. In the event a licensed coin-operated amusement device is removed from the city and is not replaced with a similar machine or device, the distributor, exhibitor or such other person shall return the license for that machine or device to the city collector and the license shall be declared null and void.

(Code 1974, § 17-63; Ord. No. 4.337, § 3, 2-8-2016)

Sec. 5.120.120. Inspection.

It shall be the duty of the city manager to cause the inspection of business premises and other locations in the city from time to time to ensure compliance with this article.

(Code 1974, § 17-64)

Sec. 5.120.130. Penalty for violation.

Any distributor, exhibitor or person found guilty of a violation of the provisions of this article shall be punished by a fine not to exceed \$500.00. Each day that a violation occurs shall constitute a separate offense.

(Code 1974, § 17-65)

CHAPTER 130. VEHICLES FOR HIRE³⁹

³⁹Cross reference(s)—Traffic code, title IV.

- CODE OF ORDINANCES
Title V - BUSINESS AND OCCUPATIONS
CHAPTER 130. - VEHICLES FOR HIRE
ARTICLE 1. IN GENERAL

ARTICLE 1. IN GENERAL

Secs. 5.130.010—5.130.100. Reserved.

ARTICLE 2. TAXICABS

Division I. Generally

Sec. 5.130.110. Applicability.

The provisions of this article shall apply to all taxicabs and other motor vehicles of every kind, character and description which are being used as taxicabs, cabs or for hire cars engaged as such in the carriage of passengers for hire on the streets of the city.

(Code 1974, § 28.1-1)

Sec. 5.130.120. Insurance required.

- (a) It shall be unlawful to operate a taxicab or permit the taxicab to be operated nor shall any permit be issued under this article until and unless the applicant for such permit, in addition to all other requirements in this article, shall file and maintain with the city clerk for each taxicab to be operated, either a bond or policy of liability insurance indemnifying the applicant in the sum of at least \$10,000.00 for injury to, or death of, one person by reason of the negligence of the driver or operator of such taxicab, and \$25,000.00 for injury to, or death of, more than one person, resulting from a single accident by reason of the negligence of the driver or operator of such taxicab, and \$5,000.00 for damage to property, including baggage or other property, of a passenger carried in or on such taxicab, resulting from any single accident, by reason of the negligence of the driver or operator of such taxicab.
- (b) Such policy shall further contain a clause obligating the insurance company to give 20 days' written notice to the city council before cancellation of the policy, and the permit shall expire upon the lapse of such policy or certificate, or termination of the policy or certificate by cancellation, unless within such 20 days. In the case of notice of cancellation by the insurance company, the holder of a permit shall furnish another policy or bond acceptable to the city council.

(Code 1974, § 28.1-8)

Sec. 5.130.130. Identification of taxicabs; display of driver's identification card and rate cards.

- (a) Every taxicab for which a permit shall be granted shall display a rate card stating all the elements of the schedule of fare charged by such taxicab.
- (b) Every taxicab shall have displayed on the right sun visor so as to be visible to passengers a card identifying the driver of such cab, which shall include a photograph of such driver.

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- (c) Every taxicab shall have displayed on each side in permanent letters, not less than two inches high, the name of the cab company or permittee, the telephone number of the cab company or permittee and, if the permittee operates more than one cab, a number designating such cab. Magnetic or other removable signs shall not be permitted.

(Code 1974, § 28.1-9)

Sec. 5.130.140. Receipts for fares.

Every driver of a taxicab, when requested by the passenger, shall give a numbered receipt showing the owner's name, date and amount of fare charged.

(Code 1974, § 28.1-10)

Sec. 5.130.150. Soliciting passengers of other carriers.

No owner, driver or any other person shall solicit the patronage of persons assembled at the terminal of any other common carrier, nor at any intermediate points along any established route of such carrier, when such persons have assembled for the purpose of using the service of such common carrier. Nothing contained in this section shall be construed to prohibit or interfere with response to any call for a taxicab made by a signal from a pedestrian.

(Code 1974, § 28.1-11)

Sec. 5.130.160. Acceptance of additional passengers.

Whenever a taxicab is occupied by a passenger, the driver may not permit another person to occupy or ride in such taxicab without specific request originating with the original passenger.

(Code 1974, § 28.1-12)

Sec. 5.130.170. Taximeters in operation; charges.

Every taxicab shall be equipped with a single tariff taximeter which shall be in operation at all times when such taxicab is in transit carrying passengers. No taxicabs shall charge more than the rates stated on the rate card required to be displayed in such taxicab.

(Code 1974, § 28.1-13)

Sec. 5.130.180. Limitation on number of passengers.

No driver of a taxicab shall permit more persons to be carried in a taxicab than the seating capacity of the cab, which in no case shall exceed six persons including the driver. A child in arms shall not be counted as a passenger.

(Code 1974, § 28.1-14)

Sec. 5.130.190. Maintenance of taxicabs.

Every taxicab operated on the streets of the city shall be maintained in clean and serviceable condition and in adequate repair.

(Code 1974, § 28.1-15)

Sec. 5.130.200. Penalty.

Any person who violates any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$25.00 or more than \$500.00 for each such offense.

(Code 1974, § 28.1-16)

Division II. Permit**Sec. 5.130.210. Required.**

No taxicabs shall be operated upon the streets of the city until a permit therefor has been obtained from the city council. Such required permit shall be in addition to any occupational license required by other ordinances of the city.

(Code 1974, § 28.1-2)

Sec. 5.130.220. Application.

Any person desiring to operate a taxicab in the city shall make written application for such permits to the city manager, and such application shall be verified under oath and shall set forth:

- (1) A full identification of the applicant and all persons to be directly or indirectly interested in the permit, if granted;
- (2) The residence and business address and the citizenship of the applicant, and of all members of any firm or partnership, and of all officers and directors of any corporation applying;
- (3) Whether the applicant or any person with whom the applicant has been associated or employed, or any person the applicant intends to employ, has unpaid claims or unsatisfied judgments against them for damages resulting from the negligent operation of a motor vehicle;
- (4) The past experience, if any, that the applicant has had in rendering taxicab service in other communities, and the period of time the applicant has rendered such service;
- (5) Whether any permit issued to the applicant has been revoked;
- (6) The number of taxicabs proposed to be operated; and
- (7) The fees or rates to be charged for the hire of such taxicabs.

(Code 1974, § 28.1-3)

Sec. 5.130.230. Issuance.

Upon compliance with the requirements of this division, the city manager shall cause to be issued a permit as provided for in this division.

(Code 1974, § 28.1-4)

Sec. 5.130.240. Transfers.

No permit issued under this division shall be transferred from one owner or operator to another.

(Code 1974, § 28.1-5)

Sec. 5.130.250. Revocation.

- (a) Whenever it shall appear upon investigation and hearing by the city council that a permit or a license has been obtained by misrepresentation or fraud, or a permit holder under this division has knowingly violated any provision of this division or any regulation properly issued by the city manager in the city manager's administration of this article, the permit shall thereupon be revoked by the city council. Before a permit shall be revoked, however, the holder of the permit shall be given at least ten days' notice of the place and time of a hearing before the city council at which the holder of the permit shall have the right to appear and present evidence.
- (b) The permit of any person shall be forthwith revoked by the city manager whenever the city manager shall have received a certificate from any court or the clerk thereof showing that such person shall have failed to satisfy within 30 days any final judgment, upon which execution has been lawfully issued against such person for damages on account of bodily injury, including death, or damage to property resulting from the ownership, maintenance, use or operation of a taxicab.

(Code 1974, § 28.1-6)

Sec. 5.130.260. Fee.

- (a) No person shall operate any taxicab upon the streets of the city until, in addition to all other requirements of this division, there has been paid an annual permit fee of \$15.00 per taxicab for the privilege of operating taxicabs within the city. Such permit fee shall be due on July 1 of each year and may be prorated from the date of application.
- (b) Such permit fee shall be in addition to any motor vehicle license tax imposed by the city and in addition to any occupational license fee for the operation of such taxicabs.

(Code 1974, § 28.1-7)

CHAPTER 135. PAWNBROKERS⁴⁰

⁴⁰State law reference(s)—Pawnbrokers and small loans, RSMo ch. 367.

Sec. 5.135.010. Definitions.

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

~~Director of public safety~~Chief of Police means the ~~chief law enforcement official~~Chief of Police of the city or the official's designee.

Month means that period of time from one date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date, then the last day of such following month, and when computations are made for a fraction of a month, a day shall be 1/30 of a month.

Net assets means the book value of the current assets of a person or pawnbroker less its applicable liabilities as stated in this chapter. Current assets include the investment made in cash, bank deposits, merchandise inventory, and loans due from customers excluding the pawn service charge. Current assets do not include the investments made in fixed assets of real estate, furniture, fixtures, or equipment; investments made in stocks, bonds, or other securities; or investments made in prepaid expenses or other general intangibles. Applicable liabilities include trade or other accounts payable; accrued sales, income, or other taxes; accrued expenses; and notes or other payables that are unsecured or secured in whole or part by current assets. Applicable liabilities do 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.

Owner or owners means the proprietor, if a sole proprietorship; all partners (general and limited), if a partnership; or all officers, directors, and persons holding ten percent or more of the outstanding shares of a corporation.

Pawnbroker means any person engaged in the business of lending money on the security of pledged property or engaged in the business of purchasing tangible personal property on the condition that the pledged property may be redeemed or repurchased by the seller for a fixed amount of money within a fixed period of time.

Pawnshop means the location at which or premises in which a pawnbroker regularly conducts business.

Person means an individual, partnership, corporation, joint venture, trust, association, or any other legal entity however organized.

Person of good moral character means a person who has not been convicted of any state, federal or municipal offense involving drugs or narcotics, robbery, burglary, theft, stealing, receiving stolen property, embezzlement, extortion, forgery, gambling, bribery, perjury, weapons offense, any crime of violence or any related offense.

Pledged property means tangible personal property, other than choses in action, securities, or printed evidence of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of the pawnbroker's business in connection with a pawn transaction.

Secured personal credit loan means every loan of money made in this city, the payment of which is secured by a security interest in the pledged property which is physically delivered into the hands of the lender at the time of the making of the loan and which is to be retained by the lender while the loan is a subsisting obligation.

Value means the fair market value of the property at the time and place of the acquisition of the property by the dealer, or, where no reasonable monetary value can be ascertained, the cost of replacement of the property. It is expressly provided that value, as used in this chapter, shall not be determined by the cost of the property as paid by the pawnbroker.

(Code 1974, § 17-49; Ord. No. 3.763, § 1(17-49) 6-12-2000)

Cross reference(s)—Definitions generally, § 1.100.020 Cross reference(s)—.

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(Supp. No. 9)

Sec. 5.135.020. License.

- (a) *License required.* No person shall operate a pawnshop in the city unless such person obtains a license issued by the city in accordance with the provisions of this chapter. A license is required for each place where pawnbroking business is transacted, and no one shall act as an agent, employee, or solicitor for any pawnbroker while such pawnbroker is engaged in such business at a place other than that specified in the license.
- (b) *License year is fiscal year.* All licenses issued under this chapter are for a period of one year, or portion of one year, and expire on 12:00 midnight of June 30. The city shall prorate the license fee for any license that is issued for a portion of a year.
- (c) *Application for new license.*
 - (1) An application for a new license shall be under oath and shall contain all relevant information sufficient to inform the city regarding the qualifications of the applicant for a license as required by the city. At a minimum, the application shall include:
 - a. The full name and place of residence of the owner. If the applicant is a partnership, the application shall state the full name and address of each partner, and whether such partner is a general partner or a limited partner. If the applicant is a corporation, the application shall give the full name and address of each officer, shareholder and director and the applicant shall attach a "certificate in good standing" issued by the secretary of state to the application.
 - b. The address where the business is to be conducted;
 - c. A statement as to whether the applicant has ever been convicted of a felony;
 - d. The name, address and phone number of at least two persons of good moral character who may be used as character references for the applicant; and
 - e. The name, address and phone number of the manager of the pawnshop.
 - (2) The application shall be accompanied by:
 - a. An investigation fee of \$500.00 if the applicant is unlicensed at the time of applying for the license, or \$250.00 if the application involves a second or additional license to an applicant previously licensed for a separate location, or involves substantially identical principals and owners of a licensed pawnshop at a separate location within the city;
 - b. Proof of general liability insurance in the amount of \$150,000.00;
 - c. An annual fee of \$500.00; and
 - d. A bond satisfactory to the city in an amount of \$5,000.00 issued by a surety company qualified to do business in the state. The aggregate liability of such surety shall not exceed the amount stated in the bond. The bond shall run to the city for use of the city and of any person who may have a cause of action against the obligor of such bond under the provisions of this chapter. Such bond shall be conditioned that the obligor will comply with the provision of this chapter and by all rules and regulations adopted by the city, and will pay to the city and to any such person from such obligor under and by virtue of the provisions of this chapter, or any rules adopted by the city pursuant to this chapter, during the time such bond is in effect.
- (d) *Transfer of existing license; change of ownership.* Transfer of an existing license, or the change of ownership of a licensed pawnshop, requires the new owner to follow the same steps as a new application for a new license. Licenses are personal to the licensee.

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- (e) *Investigation by city manager.* The city manager shall investigate the facts contained in an application for a license, and may request the assistance of the ~~director of public safety~~Chief of Police and any other person having knowledge of the facts contained in the application, or who is able to investigate those matters.
- (f) *Standards for issuance.* No license shall be issued to any person who:
- (1) Is not of good moral character, or to any pawnshop employing persons who are not of good moral character;
 - (2) Makes a false statement of material facts in the application for a license or renewal of licenses;
 - (3) Has a felony or misdemeanor conviction which either directly relates to the duties and responsibilities of the occupation of pawnbroker or which otherwise makes the applicant presently unfit for a license;
 - (4) Does not have net assets of at least \$100,000.00 readily available for use in conducting business as a pawnshop for each licensed pawnshop. If the city manager is unable to verify that the applicant meets the net assets requirement for a licensed pawnshop, the city may require a finding, including the presentation of a current balance sheet, by an independent certified public accountant, that the accountant has reviewed the books and records of the applicant, and that the applicant meets the net assets requirement of this chapter;
 - (5) Does not file with the city a bond satisfactory to the city manager as provided in this chapter;
 - (6) Does not file with the city proof of general liability insurance as provided in this chapter; or
 - (7) Has failed to show that the pawnshop will be operated lawfully and fairly within the purposes of this chapter and the provisions of state law.
- (g) *Renewal license applications.* Subsequent to the first year for which a license is issued to a pawnbroker, each pawnbroker shall make a renewal application to the city. The application shall be filed by June 1 of the current licensing year, and shall contain such information as required in subsection (c) of this section. The city may also require such additional information as may be necessary to determine whether pertinent conditions have changed and whether a renewal license should be issued for the subsequent licensing year. The annual fee for the issuance of a renewal license is \$500.00. No investigation fee shall be required for a renewal license.
- (h) *Suspension or revocation of license.*
- (1) If the city manager believes that conditions have changed such that the holder of a license would not still be eligible to receive a pawnbroker's license, or that the holder of the license is in violation of this chapter or state law pertaining to pawnshops the city manager may suspend the license.
 - (2) If the city manager believes that conditions have changed but that the holder of a license may remedy the situation, the city manager may suspend the license for a reasonable period of time to allow remediation, provided the licensee has not previously been in violation of this chapter or state law pertaining to pawnshops. If the city manager believes that the changed conditions are such that, if true, the licensee would not be able to remedy the situation in a reasonable time, or if the holder of the license has previously been in violation of this chapter or state law pertaining to pawnshops, then the city manager may revoke the license.
 - (3) If the city manager believes that the safety, morals, or peace of residents of the city is immediately affected by the change in conditions, the city manager may suspend or revoke the license prior to a hearing, but the licensee shall be allowed a hearing within five days of the suspension or revocation if so desired, and the city manager shall provide timely written notice to the licensee of such right. If the city manager believes that the changed condition is not of such imminent hazard to the safety, morals or peace of the residents of the city, the city manager shall hold a hearing prior to taking any action against the license and shall give the licensee at least ten days' written notice of the hearing.

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- (4) If the city manager determines after issuance of a license that the application contained false or misleading information, the license may be revoked or suspended prior to a hearing, but the licensee shall be entitled to request a hearing within five days.
 - (5) Any party aggrieved by a decision of the city manager shall have the right of appeal of that decision to the city council. A request for appeal must be filed in writing with the city clerk within ten days after receipt of the decision of the city manager to revoke a license provided for in this chapter. The city council shall provide at least ten days' written notice of its hearing on the suspension or revocation of the license to the pawnbroker. The hearing shall be held in public at a regular or specially called meeting of the city council.
 - (6) Upon suspension or revocation of any license, no license fee paid shall be refunded to the licensee.
 - (i) *Display of license.* The license provided for in this chapter shall designate the licensed location and shall be posted conspicuously on the premises.
 - (j) *Validity of existing licenses.* No person who is lawfully and actively operating a pawnshop on the effective date of the ordinance from which this chapter is derived shall be required to obtain a license under this section in order to continue operating such pawnshop, so long as such person does not violate any of the provisions of this chapter. Such person may continue to operate such pawnshop then in existence, but thereafter must receive an annual renewal license even though the operation of such pawnshop might cause the number of pawnbrokers in the city to exceed the number determined by operation of subsection (k) of this section. Such owner shall be required to pay the \$500.00 annual fee prescribed, but shall not be required to pay an investigation fee.
 - (k) *Limitation on number of pawnbrokers in the city.* Subject to the provisions of subsection (j) of this section, no license for engaging in the business of pawnbrokers shall be issued when the issuance thereof would increase the number of such licenses outstanding and in force at the time to more than one per 20,000 inhabitants.

(Code 1974, § 17-50; Ord. No. 3.763, § 1(17-50) 6-12-2000)

Sec. 5.135.030. Pawnshop dealer manager's permit.

- (a) It shall be unlawful for any person, other than an owner, who works as a manager at a pawnshop to do so without having first obtained from the city a permit, to be designated as a "pawnshop dealer manager's permit" (manager's permit) or to work as a manager at such business after such person's manager's permit has been revoked, or while such person's permits is suspended.
- (b) Each application for a manager's permit shall be signed by the applicant and be notarized. The application shall contain the following information:
 - (1) The applicant's name, home address, home telephone number, date and place of birth, Social Security Number and two photographs (passport size);
 - (2) The name and address of the business at which the applicant intends to work as a manager, and an "intent to hire" statement from the business that is licensed, or that has applied for a license, under the provisions of this chapter;
 - (3) A statement from the applicant that they are a person of good moral character, and that the applicant has not been convicted of any felony, misdemeanor or municipal ordinance which makes the applicant presently unfit for a manager's permit; and
 - (4) Any other information deemed relevant by the city for the efficient administration of this subsection.

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- (c) A manager's permit shall be valid for a period of three years from the date of issuance. A fee of \$15.00 shall be payable at the time the application for the permit or renewal is submitted for approval. Renewals shall be made in the same manner as provided for in this section.
 - (d) Failure to provide information required by this section shall constitute an incomplete application and the incomplete application shall not be processed.
 - (e) After an investigation, the city shall issue or renew a manager's permit authorized by this section if the city finds:
 - (1) That the applicant has not made any false, misleading or fraudulent statement of material fact in the application for a permit or the renewal thereof;
 - (2) That the applicant is at least 18 years of age or older;
 - (3) That the applicant is a person of good moral character; and
 - (4) That the applicant has not had a license or manager's permit issued under the provisions of this chapter revoked within five years immediately preceding the application.

(Code 1974, § 17-51; Ord. No. 3.763, § 1(17-51) 6-12-2000)

Sec. 5.135.040. Operation of pawnshop.

- (a) *Receipt for pledged property.*
 - (1) *Contents of receipt.* At the time of making any secured personal credit loan, the lender shall execute and deliver to the borrower a receipt for, and describing, the pledged property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:
 - a. The name and address of the pawnshop;
 - b. The name and address of the pledgor, the pledgor's description (including, but not limited to, the pledgor's height, weight, sex, race or nationality, color of eyes, color of hair, scars, tattoos or other identifying physical characteristics), the driver's license number, date of birth, home telephone number, and military identification number, identification certificate number, or other official number capable of identifying the pledgor;
 - c. The date of the transaction;
 - d. An identification and description of the pledged property, including serial numbers if reasonably available;
 - e. The amount of cash advanced or credit extended to the pledgor;
 - f. The amount of the pawn service charge;
 - g. The total amount which must be paid to redeem the pledged property on the maturity date;
 - h. The maturity date of the pawn transaction;
 - i. 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; and
 - j. The identity of the pawnshop employee handling the pawn transaction.
 - (2) *Loss of receipt.* If a 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

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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 the state.

(b) *Operational regulations.*

- (1) *Register.* The pawnbroker shall keep a register of all items pawned at each pawnshop which shall contain the information listed in subsection (a)(1) of this section.
- (2) *Photograph.* All pawnbrokers shall install a proper camera in operative condition and shall use such equipment to photograph every person together with receipts of redemption tickets given to such persons with all loans with all purchases of items from such persons. All pawnbrokers shall display, in a prominent place, a notice to customers that they are required to be photographed when they pawn, sell, or offer as a part or full payment, any item to the pawnbroker. All such photographs shall be maintained and kept by the pawnbroker for a period of at least one year following the taking of the photograph, and shall be available for development, and developed by the pawnbroker upon request by the ~~director of public safety~~Chief of Police.
- (3) *Inspection by officer.* The register and photographs provided for in this section shall at all times be kept open to the inspection of any law enforcement officer without prior notice or the necessity of obtaining a search warrant during regular business hours. Every pawnbroker shall also, upon request, show and exhibit to any such officer, any item purchased, taken, or received by the pawnbroker if the item is still in the possession of the pawnbroker.
- (4) *Reporting of pawn information to ~~public safety~~police department.*
 - a. Every pawnbroker doing business within the city is required to furnish the ~~police~~public safety department with copies of information contained in subsection (a)(1)a—d of this section and information contained in subsection (d)(4)f of this section. The pawnbroker may satisfy such requirements by transmitting such information electronically to a database designated by the ~~police~~public safety department and in accordance with this section, except that paper copies shall be made available for an on-site inspection upon request of the ~~police~~public safety department or any other appropriate law enforcement authority.
 - b. As used in this subsection, the following terms are defined as follows:

Database means a computer database established and maintained by a third party engaged in the business of establishing and maintaining one or more databases.

Permitted user means persons authorized by law enforcement personnel to access the database.

Reportable data means the information required to be recorded by pawnbrokers for pawn transactions pursuant to subsection (b)(4)a of this section.

Reporting pawnbroker means a pawnbroker who transmits reportable data electronically to the database.

Search means the accessing of a single database record.
 - c. The database shall provide the information required under this section and other useful information to facilitate the investigation of alleged property crimes while protecting the privacy rights of pawnbrokers and pawnshop customers with regard to their transactions.
 - d. The database shall contain the pawn and purchase transaction information recorded by reporting pawnbrokers pursuant to this section and shall be updated as requested. The database shall also contain such security features and protections as may be necessary to ensure that the reportable

data maintained in the database can only be accessed by permitted users in accordance with the provisions of this section.

- e. No reporting pawnbroker or customer of a reporting pawnbroker shall be charged any costs for the creation or utilization of the database.
 - f. 1. The information in the database shall only be accessible through the Internet to permitted users who have provided a secure identification or access code to the database but shall allow such permitted users to access database information from any jurisdiction transmitting such information to that database. Such permitted users shall provide the database with an identifier number of a criminal action for which the identity of the pawn or purchase transaction customer is needed and a representation that the information is connected to an inquiry or to the investigation of a complaint or alleged crime involving goods delivered by that customer in that transaction. The database shall record, for each search, the identity of the permitted user, the pawn or purchase transaction involved in the search, and the identity of any customer accessed through the search. Each search record shall be made available to other permitted users regardless of their jurisdiction. The database shall enable reporting pawnbrokers to transmit to the database through the Internet reportable data for each pawn and purchase transaction.
 - 2. Any person who gains access to information in the database through fraud or false pretenses shall be guilty of a class C felony.
 - g. 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.
 - h. If a reporting pawnbroker or permitted user discovers any error in the reportable data, notice of such error shall be given to the database, which shall have a period of 30 days in which to correct the error. Any reporting pawnbroker experiencing a computer malfunction preventing the transmission of reportable data or receipt of search requests shall be allowed a period of at least 30 but no more than 60 days to repair such malfunction, and during such period such pawnbroker shall not be deemed to be in violation of this section if good faith efforts are made to correct the malfunction. During the periods specified in this subsection, the reporting pawnbroker and permitted user shall arrange an alternative method or methods by which the reportable data shall be made available.
 - i. No reporting pawnbroker shall be obligated to incur any cost, other than Internet service costs, in preparing, converting, or delivering its reportable data to the database.
- (5) *Notice of pledged property to be shipped out of town.* Every pawnbroker shall give the ~~director of public safety~~Chief of Police written notice of all pledged property to be shipped out of town, which notice shall state the name of the pledgee and the destination and date of shipment. Such property shall not be shipped for at least seven days after delivery of the copy of the register to the ~~director of public safety~~Chief of Police.
 - (6) *Inspection of property; hold order; confidentiality.*
 - a. Upon request of a law enforcement officer to inspect property that is described in information furnished by the pawnbroker pursuant to this chapter, the law enforcement officer shall be

entitled to inspect the property described, without prior notice or the necessity of obtaining a search warrant during regular business hours in a manner so as to minimize interference with or delay to the pawnbroker's business operation. When a law enforcement officer has probable cause to believe that goods or property in the possession of a pawnbroker are misappropriated, the officer may place a hold order on the property. The hold order shall contain the following:

1. The name of the pawnbroker;
2. The name and mailing address of the pawnshop where the property is held;
3. The name, title and identification number of the law enforcement officer placing the hold order;
4. The name and address of the agency to which the law enforcement officer is attached and the claim or case number, if any, assigned by the agency to the claim regarding the property;
5. A complete description of the property to be held including model and serial numbers;
6. The expiration date of the holding period.

The hold order shall be signed and dated by the issuing officer and signed and dated by the pawnbroker or the pawnbroker's designee as evidence of the hold order's issuance by the officer, receipt by the pawnbroker and the beginning of the initial holding period. The officer issuing the hold order shall provide an executed copy of the hold order to the pawnbroker for the pawnbroker's recordkeeping purposes at no cost to the pawnbroker.

- b. Upon receiving the hold order, and subject to the provisions of this chapter, the pawnbroker shall retain physical possession of the property subject to the order in a secured area. The initial holding period of the hold order shall not exceed two months, except that the hold order may be extended for up to two successive one-month holding periods upon written notification prior to the expiration of the immediately preceding holding period. A hold order may be released prior to the expiration of any holding period or extension thereof by written release from the agency placing the initial hold order. The initial hold order shall be deemed expired upon the expiration date if the holding period is not extended pursuant to this subsection.
- c. Upon the expiration of the initial holding period or any extension thereof, the pawnbroker shall deliver written notice to the law enforcement officer issuing the hold order that such order has expired and that title to the property subject to the hold order will vest in the pawnbroker in ten business days. Ownership shall only vest in the pawnbroker upon the expiration of the ten-day waiting period subject to any restriction contained in the pawn contract and subject to the provisions of this chapter. Vesting of title and ownership shall be subject to any claim asserted by a claimant pursuant to this chapter.
- d. In addition to the penalty provisions contained in this chapter, gross negligence or willful noncompliance with the provisions of this section by a pawnbroker shall be cause for the licensing authority to suspend or revoke the pawnbroker's license. Any imposed suspensions or revocation provided for by this subsection may be appealed by the pawnbroker to the licensing authority or to a court of competent jurisdiction.
- e. All records and information that relate to a pawnbroker's pawn, purchase or trade transactions and that are delivered to or otherwise obtained by an appropriate law enforcement officer pursuant to this chapter are confidential and may be used only by such appropriate law enforcement officer and only for the following official law enforcement purposes:
 1. The investigation of a crime specifically involving the item of property delivered to the pawnbroker in a pawn, purchase or trade transaction;

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2. The investigation of a pawnbroker's possible specific violation of the recordkeeping or reporting requirements of this chapter but only when the appropriate law enforcement officer, based on a review of the records and the information received, has probable cause to believe that such a violation occurred; and
 3. The notification of property crime victims of where property that has been reported misappropriated can be located.

(c) *Pawnbroker entitled only to goods pledged; misappropriated goods.*

- (1) As used in this subsection, the following terms are defined as follows:

Claimant means a person who claims that property in the possession of a pawnbroker is misappropriated from the claimant and fraudulently pledged or sold to the pawnbroker.

Conveying customer means a person who delivers property into the possession of a pawnbroker, either through a pawn transaction, a sale or trade, which property is later claimed to be misappropriated.

Hold order means a written legal instrument issued to a pawnbroker by a law enforcement officer commissioned by the city, ordering the pawnbroker to retain physical possession of pledged goods in the possession of a pawnbroker or property purchased by and in the possession of a pawnbroker and not to return, sell or otherwise dispose of such property as such property is believed to be misappropriated goods.

Law enforcement officer means the police chief or police officer designated by the police chief of the city.

Misappropriated means stolen, embezzled, converted, or otherwise wrongfully appropriated or pledged against the will of the rightful owner or party holding a perfected security interest.

Pledgor means a person who pledges property to the pawnbroker.

Purchaser means a person who purchases property from a pawnbroker.

Seller means a person who sells property to a pawnbroker.

- (2) A pawnbroker shall have no recourse against the pledgor for payment on a pawn transaction except the pledged goods themselves, unless the goods are found to have been misappropriated.
- (3) A pawnbroker shall require of every person from whom the pawnbroker receives sold or pledged property proof of identification which includes a current address and, if applicable, telephone number, and a current picture identification issued by state or federal government.
- (4) If any seller fails to provide a pawnbroker with proof of identification, the pawnbroker shall hold such property for a period of 30 days prior to selling or otherwise transferring such property, provided the seller has submitted a signed statement that the seller is the legal owner of the property and stating when or from whom such property was acquired by the seller.
- (5) To obtain possession of tangible personal property held by a pawnbroker which a claimant claims to be misappropriated, the claimant shall provide the pawnbroker with a written demand for the return of such property, a copy of a police or sheriff's report wherein the claimant reported the misappropriation or theft of said property and which contains a particularized description of the property or applicable serial number, and a signed affidavit made under oath setting forth they are the true owner of the property, the name and address of the claimant, a description of the property being claimed, the fact that such property was taken from the claimant without the claimant's consent, permission or knowledge, the fact that the claimant has reported the theft to the police, the fact that the claimant will assist in any prosecution relating to such property, the promise that the claimant will respond to court process in any criminal prosecution relating to said property and will testify truthfully

as to all facts within the claimant's knowledge and not claim any testimonial privilege with respect to said facts. These documents shall be presented to the pawnbroker concurrently.

- (6) Upon being served with a proper demand by a claimant for the return of property pursuant to subsection (c)(5) of this section, the pawnbroker shall return the property to the claimant, in the presence of a law enforcement officer, within seven days unless the pawnbroker has good reason to believe that any of the matters set forth in the claimant's affidavit are false or if there is a hold order on the property pursuant to this chapter. If a pawnbroker refuses to deliver property to a claimant upon a proper demand as described in subsection (c)(5) of this section, the claimant may file a petition in a court of competent jurisdiction seeking the return of said property. The non-prevailing party shall be responsible for the costs of such action and the attorney fees of the prevailing party. The provisions of RSMo 482.305 to the contrary notwithstanding, a court of competent jurisdiction shall include a small claims court, even if the value of the property named in the petition is greater than \$3,000.00.
- (7) If a pawnbroker returns property to a claimant relying on the veracity of the affidavit described in subsection (b)(5) of this section, and later learns that the information contained in the affidavit is false or that the claimant has failed to assist in prosecution or otherwise testify truthfully with respect to the facts within the claimant's knowledge, the pawnbroker shall have a cause of action against the claimant for the value of the property. The nonprevailing party shall be responsible for the cost of such action and the attorney fees of the prevailing party.
- (8) Nothing contained in this section shall limit a pawnbroker from bringing the conveying customer into a suit as a third party, nor limit a pawnbroker from recovering from a conveying customer repayment of the full amount received from the pawnbroker from the pawn or sales transaction, including all applicable fees and interest charged, attorney fees and the cost of the action.

(d) *Loans due; return of collateral; restrictions.*

- (1) Every secured personal credit loan shall be due and payable in lump sum 30 days after the date of the loan contract, or if extended, 30 days after the date of the last preceding extension of the loan, and if not so paid when due, it shall, on the next day following, be in default. The lender shall retain possession of the pledged property subjected to the security interest to secure payment of any secured personal credit loan for a period of 60 days next following the date of default. If, during the period of 60 days, borrower shall pay to the lender the principal sum of the loan, with the loan fee, and the interest due thereon to the date of payment, the lender shall thereupon deliver possession of the tangible property to the borrower. If the borrower fails, during the period of 60 days to make payment, the title to the pledged property shall, on the day following expiration of the period of 60 days, pass to the lender without foreclosure, and the right of redemption by the borrower shall be forever barred.
- (2) A pledgor shall have no obligation to redeem pledged property or make any payment on a transaction.
- (3) Except as otherwise provided in this chapter, any person properly identifying themselves and presenting a redemption ticket to the pawnbroker shall be presumed to be entitled to redeem the pledged property described in this chapter.
- (4) A pawnbroker shall not:
 - a. Accept a pledge from a person who is under 18 years of age;
 - b. Make any agreement requiring the personal liability of a pledgor in connection with a pawn transaction;
 - c. Accept any waiver, in writing or otherwise, of any right to protection accorded a pledgor under this chapter or other law;
 - d. Fail to exercise reasonable care to protect pledged property from loss or damage;

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- e. Fail to return pledged property to a pledgor upon payment of the full amount due the pawnbroker on the pawn transaction. In the event such pledged property is lost or damaged as a result of the negligence of the pawnbroker while in the possession of the pawnbroker, it shall be the responsibility of the pawnbroker to replace the lost or damaged property with like kind of merchandise. If a like kind of merchandise is not available, the pawnbroker shall pay to the pledgor the value of the lost or damaged property;
 - f. Purchase or take in trade used or secondhand personal property unless a record is established that contains:
 - 1. 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;
 - 2. A complete description of the property, including the serial number, if reasonably available, or other identifying characteristic; and
 - 3. A signed document from the seller providing that the seller has the right to sell the property.

(5) A pawnbroker shall have no recourse when a customer has pledged property for the receipt of money except the pledged property itself, unless the pledged property is found to be stolen, embezzled, mortgaged or otherwise pledged or encumbered and the pawnbroker was not made aware of such facts by the customer at the time the property was pledged. When a customer is officially notified by a law enforcement officer that the property the customer pledged or sold to a pawnbroker was stolen or embezzled, the customer shall be liable to repay the pawnbroker the full amount the customer received from the pawn or buy transaction.

- (e) *Pawnshop not to be used as a residence.* No pawnshop or member of the pawnbroker's family, employee or any other person shall be permitted to live in a pawnshop, in rooms connecting therewith, or anywhere on the premises of such business.
- (f) *Hours of operation.* No pawnshop shall be open for business or receive as pawned, pledged or purchased, on any condition whatsoever, any item of personal property or other valuable thing between the hours of 7:00 p.m. on any day and 7:00 a.m. on the following day.
- (g) *Adequate books and records required.* Each licensee shall keep, consistent with accepted accounting practices and the requirements of this chapter, adequate books and records relating to the licensee's pawn transactions, which books and records shall be preserved for a period of at least two years from the date of the last transaction received therein.
- (h) *Compliance with other city ordinances required.* It shall be unlawful for a pawnshop owner not to comply with the building codes, zoning, fire, and health and property maintenance ordinances of the city and with regulations of such departments of the city. Failure to comply with such ordinances or regulations may be a basis for suspension, revocation, or nonrenewal of the license issued to that owner.
- (i) *Manager or owner on premises.* A pawnshop manager permit holder or owner shall be on duty at a pawnshop at all times the pawnshop is open for business. The name of the manager or owner on duty shall be prominently posted during business hours.
- (j) *Employee information on premises.* It shall be the responsibility of the manager or owner to have on the premises the names, addresses, home telephone numbers, date and place of birth, Social Security numbers, and photographs (passport size) of all current and former employees for a period of two years following termination of such employee's employment.

(Code 1974, § 17-52; Ord. No. 3.763, § 1(17-52) 6-12-2000; Ord. No. 3.959, § 1, 6-13-2005)

Sec. 5.135.050. Enactment of rules and regulations.

The city manager may issue such additional rules and regulations as deemed necessary to implement this chapter and the policies contained in this chapter.

(Code 1974, § 17-53; Ord. No. 3.763, § 1(17-53) 6-12-2000)

Sec. 5.135.060. Penalty.

Any person operating a pawnshop without a license or otherwise in violation of the standards and requirements provided in this chapter shall be guilty of a violation of this chapter and, upon conviction thereof, shall be punished by a fine not exceeding \$500.00, or by imprisonment not exceeding 90 days, or by both such fine and imprisonment.

(Code 1974, § 17-54; Ord. No. 3.763, § 1(17-54), 6-12-2000)

CHAPTER 150. DAY LABOR BUSINESSES

ARTICLE 1. IN GENERAL

Sec. 5.150.010. 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:

Day labor business means any enterprise, other than a labor union or a nonprofit association or charitable entity, and includes any organization engaged in procuring or providing persons to perform temporary unskilled work at a site other than the premises where (1) the day laborers are paid by the day labor business or a third party employer each work day or on the business day following the workday, and (2) persons arrive at the premises to make application for work as a day laborer, to obtain assignment for day labor, to obtain transportation to a day labor site or to obtain payment of wages or benefits for day labor. For purposes of this definition, the term "unskilled work" means work involving physical tasks for which the worker is not required by law to hold a professional or occupational license, or possess proficiency in a specific vocation or with a specified type of machinery to be used in the work, but does not include white collar, secretarial, clerical or professional work.

Director means the director of the community development department or a person designated by the director.

Permittee means any individual, firm, association, corporation, partnership or organization holding a permit issued by the director pursuant to this chapter to operate a day labor business.

Premises means the bounds of the enclosure where a day labor business is conducted and includes parking lots and other adjacent private property occupied by or used in connection with the business.

Third party employer means any individual, firm, association, corporation, partnership or organization contracting with a day labor business for purposes of procuring persons to provide services for the third party employer.

(Ord. No. 3.915, art. I, § 1, 5-10-2004)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 5.150.020. Applicability of other regulations; conflicting provisions.

- (a) The permit provided for in this chapter is subject to the general provisions of this Code. In the event of a conflict between the provisions of this chapter and other parts of this Code, the provisions of this chapter shall control.
- (b) The permit and fees required by this chapter shall be in addition to any other licenses and fees required by this Code.
- (c) The permit fees required by this chapter apply only to the costs of investigating and processing the applications for the permits.

(Ord. No. 3.915, art. I, § 2, 5-10-2004)

Sec. 5.150.030. Permit required.

It shall be unlawful for any person to engage in a day labor business at any location unless that person has obtained from the director a permit to do so, or to operate the business after the permit has been revoked or while the permit is suspended. A permit is required for each location of a day labor premises.

(Ord. No. 3.915, art. I, § 3, 5-10-2004)

Sec. 5.150.040. Duration of permit; permit fee.

- (a) Permits for the operation of day labor business shall be annual permits which expire on June 30 of each year. Each permit shall include the name of the permit holder and address of the premises. Permits in good standing on the date of their expiration shall be eligible for renewal. The application for a permit shall be accompanied by payment in full of the fee stated in this section, by cash, certified or cashier's check or money order, and no application shall be considered complete until the fee is paid. The fee shall not be refunded under any circumstances.
- (b) The fee for each permit shall be as follows:
 - (1) New day labor business permit, \$150.00 per year.
 - (2) Renewal of day labor business permit, \$150.00 per year.

(Ord. No. 3.915, art. I, § 4, 5-10-2004)

Sec. 5.150.050. Contents of permit application.

Any person desiring to operate a day labor business shall make written application for a permit or the renewal thereof to the director, which application shall be signed by the applicant and notarized. All applications shall be submitted on a form supplied by the director and shall set forth the following:

- (1) The name, residence address, home telephone number, date and place of birth of the applicant;
- (2) The business name, address of the premises and telephone number of the business;
- (3) The names, residence addresses, residence telephone numbers, and dates of births of the following:
 - a. All partners, if the applicant is a partnership;

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- b. All members, if the applicant is a limited liability company;
 - c. All corporate officers and directors and all shareholders with greater than a ten percent corporate share interest, if the applicant is a corporation;
 - d. All persons having an ownership interest in any other business entity or association;
- (4) Whether or not the applicant or any person identified under subsection (3) of this section has been convicted of violating any provision of this chapter or has ever had a permit issued under this chapter revoked or suspended and the reason therefor;
 - (5) If the applicant is a corporation, a certificate of good standing issued by the secretary of state dated not more than 30 days prior to the submittal of the application; and
 - (6) Such further information as the director may reasonably require.

(Ord. No. 3.915, art. I, § 5, 5-10-2004)

Sec. 5.150.060. Inspections.

The director is hereby empowered to appoint inspectors of any day labor business, and all those premises shall be open to the inspections of the director or inspectors appointed by the director or to any member of the ~~public safety~~ police department at any time during the hours allowed for business, and at other reasonable times.

(Ord. No. 3.915, art. I, § 6, 5-10-2004)

Sec. 5.150.070. Penalty.

It shall be unlawful for any person to violate any of the provisions of this chapter. Upon conviction thereof, such person shall be fined not less than \$25.00 and not more than \$500.00, or be punished by imprisonment at the municipal correctional institution or in such other place as provided by law, or be punished by both such fine and imprisonment. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this chapter shall constitute a separate and distinct offense. The penalties provided in this section are in addition to and are separate from any administrative actions by the director to suspend, revoke or disapprove renewal of a permit issued under this chapter.

(Ord. No. 3.915, art. I, § 7, 5-10-2004)

Sec. 5.150.080. Judicial review of orders of director; stay of enforcement of orders.

Following the entry of an order by the director suspending or revoking a permit, or disapproving a new or renewal application for a permit, such permittee or applicant may seek judicial review in a manner provided by law. The director shall stay enforcement of such order for a period of time not to exceed 30 days pending the filing or final disposition of proceedings for judicial review.

(Ord. No. 3.915, art. I, § 6, 5-10-2004)

ARTICLE 2. ISSUANCE OF PERMIT

Sec. 5.150.090. Criteria for issuance; inspection of premises.

- (a) The director shall investigate the application for a day labor business permit and shall issue the permit authorized by this chapter if the director finds that each of the following conditions is met without exception:
 - (1) The applicant is current in all taxes, fees and other amounts due to the city on any account, for any purpose.
 - (2) The application is complete and appears to be truthful and accurate.
 - (3) The application is accompanied by the required fee.
 - (4) The premises meet all other applicable health, safety, zoning, property maintenance, building and fire codes and ordinances of the city.
 - (5) The premises have a clean and adequate waiting area with adequate seating and adequate heating, ventilating and air conditioning which is made available to the workers waiting for work assignments or transportation to work assignments at least one hour prior to the posted commencement of the work assignment and transportation.
 - (6) The premises have adequate drinking water and toilet facilities which shall be available to the workers waiting for work assignments or transportation to work assignments at all times during all hours of operation of the business or during which the waiting room referred to herein is open.
 - (7) The day labor business and premises are covered by not less than \$1,000,000.00 liability insurance.
 - (8) The applicant has provided the director with a designated agent or representative who can regularly be found in the city during normal business hours.
- (b) The director is authorized to make inspections at reasonable times and hours of any day labor premises in which the day labor business is or is to be located for purposes of determining whether such business fully complies with the provisions of this section.

(Ord. No. 3.915, art. II, § 1, 5-10-2004)

Sec. 5.150.100. Approval or disapproval of application; request for hearing; judicial review.

- (a) The application for a day labor business permit authorized under this chapter shall be approved or disapproved within 30 days from the date of the director's determination that the application is complete, unless the applicant agrees in writing to an extension of that time period. If a permit application is disapproved, the director shall notify the applicant in person, or by registered or certified mail to the applicant's last known address, and shall state the basis for such disapproval.
- (b) If within ten days after the director mails notice to the applicant that the application has been disapproved, the applicant files with the director a written request for a hearing before the director as to whether the applicant has satisfied the criteria set forth in this chapter, then the director shall, within five days of receipt of a timely request, mail a notice of a hearing to the applicant, which shall include the date, time and place for the hearing before the director. The date for the hearing shall be not less than 30 days nor more than 40 days following the filing of the request for a hearing under this section, unless the aggrieved party requesting the hearing agrees to extend the time for the hearing.
- (c) An applicant for a permit authorized under this chapter aggrieved by the decision of the director to approve or disapprove a permit may seek judicial review in a manner provided by law.

(Ord. No. 3.915, art. II, § 2, 5-10-2004)

ARTICLE 3. CONDUCT OF BUSINESS

Sec. 5.150.110. Display of permit.

Every person, corporation, partnership or association holding a permit under this chapter as a day labor business shall post the permit in a conspicuous place and manner on the premises.

(Ord. No. 3.915, art. III, § 1, 5-10-2004)

Sec. 5.150.120. Compliance with other regulations.

It shall be the duty of a permittee to comply with the building codes, zoning, fire, health, safety and property maintenance ordinances of the city and with all regulations issued by the director pertaining to day labor businesses. Failure to comply with the ordinances or regulations after written notification of noncompliance has been delivered to the business by the city may be a basis for suspension, revocation or nonrenewal of the permit.

(Ord. No. 3.915, art. III, § 2, 5-10-2004)

Sec. 5.150.130. Permittee's duties to monitor and maintain business and premises.

(a) It is and shall be the affirmative duty of each permittee to:

- (1) Post and enforce a policy prohibiting workers from being on the premises, including parking areas and other exterior parts of the premises, before 6:00 a.m. or after 9:00 p.m.
- (2) Prevent public displays of indecency, prostitution or solicitation for prostitution from taking place on the premises, whether in or out of public view, at all times during the hours of 6:00 a.m. to 9:00 p.m.
- (3) Prevent disorderly conduct, disturbances of the public peace and gambling from taking place on the premises at all times during the hours of 6:00 a.m. to 9:00 p.m.
- (4) Prevent any unlawful sale, distribution, delivery or use of controlled substances, illegal drugs or narcotics on the premises at all times during the hours of 6:00 a.m. to 9:00 p.m.
- (5) Prevent any sale, distribution, delivery or use of any alcoholic beverages of any kind on the premises at all times during the hours of 6:00 a.m. to 9:00 p.m.
- (6) Allow law officers, code enforcement officers, health officers or other representatives of the city or other public agencies full access to the premises at any time during hours of operation for purposes of inspection to ensure compliance with this chapter and other applicable laws.
- (7) Regularly inspect and maintain the premises and all adjacent sidewalks, alleys, and areas of adjacent commercial properties accessible by the public within 50 feet of the premises for purposes of removing any litter found thereon.
- (8) Ensure that the licensee or a manager of the business is present at the premises at all times during the hours of operation.
- (9) Post and enforce the occupancy load for the premises as determined by the city.

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- (10) During the hours of operation, promptly report to the police department acts of indecency, prostitution or solicitation for prostitution, disorderly conduct, disturbances of the public peace, gambling, unlawful sale, distribution, delivery or use of controlled substances, illegal drugs or narcotics, and the sale, distribution, delivery or use of any alcoholic beverages of any kind on the alleys, sidewalks and streets adjacent to the premises.
- (b) The permit and the standards of operation, affirmative duties and other requirements of this chapter shall apply to an entire business operation and its premises, regardless of the fact that some parts of the business operation, if conducted separately at a different location, would not be subject to a permit under this chapter.
- (c) Failure to comply with the requirements of this section and all other requirements of this chapter is unlawful and a violation of this chapter and shall be grounds for suspension, revocation or nonrenewal of a license pursuant to the provisions contained in this chapter.
- (Ord. No. 3.915, art. III, § 3, 5-10-2004)

ARTICLE 4. ENFORCEMENT

Sec. 5.150.140. Suspension, revocation or denial of permit.

- (a) *Authorized; request for hearing.* Any permit issued under the provisions of this chapter may be suspended or revoked or any permit may be denied by the director, after due notice and affording an opportunity for a hearing, for any violation of the provisions of this chapter. Within ten days after the denial, suspension or revocation of any permit issued under this chapter, or for any other cause expressly allowed in this chapter, any person aggrieved thereby may apply in writing to the director for a hearing thereon, and the director shall then promptly set a time and date for a hearing thereon.
- (b) *Hearing procedures.* The following procedures shall apply to all hearings conducted under this section:
- (1) The applicant, permittee or an owner, as the case may be, shall have full right to be represented by counsel, to produce witnesses and other evidence, and to cross examine all witnesses who appear against the applicant, permittee or owner. Oral evidence shall be taken only upon oath or affirmation. All proceedings in such hearing shall be recorded and transcribed as required by law. The director may receive evidence relevant to the issues from the applicant, the permittee or other sources.
- (2) If a hearing is held under the provisions of this chapter, then the director shall issue findings of fact and conclusions of law, and an order wherein the director may approve or disapprove an application, suspend or revoke a permit previously issued, or renew or refuse to renew a permit previously issued. The director's order shall be served upon the applicant or permittee, as the case may be, in person or by registered or certified mail to the applicant's or permittee's last known address. If the director is not able to serve the order upon the applicant, permittee, or applicant for renewal permit in the manner stated in this subsection, and any notice sent by mail is returned by the postal service, the director shall cause the order to be posted at the principal entrance of the day labor business, and that posting shall be a valid means of service. The director's order shall also be posted for 30 days in the city department of neighborhood and community services.
- (c) *Judicial review.* Unless otherwise provided in this chapter, any applicant or any other person aggrieved by the decision of the director under the provisions of this chapter may seek judicial review in a manner provided by law. The cost of a transcript of a hearing before the director shall be paid by the party requesting the transcript.

(Ord. No. 3.915, art. IV, § 1, 5-10-2004)

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(Supp. No. 9)

ARTICLE 5. RENEWAL OF PERMIT

Sec. 5.150.150. Procedure.

- (a) All day labor business permits shall expire on June 30 of each calendar year. Renewal applications for such permits shall be submitted between April 1 and May 30 of each calendar year, accompanied by payment in full of the fee stated in this chapter, by cash, certified or cashier's check or money order, and no application shall be considered complete until the fee is paid. The fee shall not be refunded under any circumstances. A day labor business permit issued under this chapter may be renewed if an application in the form provided by the director has been filed with the application fee with the director and if the applicant is in compliance with the requirements in this chapter for an original permit.
- (b) Upon timely application therefor, and subject to meeting the requirements in this chapter for a new permit, a day labor business permit may be renewed by issuance of a new permit in the manner provided in this chapter unless the director disapproves the renewal application in the manner provided for in this chapter.
- (c) Upon the filing of a timely application for renewal of a permit issued under the provisions of this chapter, the director shall issue a temporary permit to the applicant, which temporary permit shall remain in effect until the director has approved or disapproved the application. If a hearing is held as required by this chapter, the temporary permit shall remain in effect until the director has issued an order following the hearing. However, if any hearing required by this chapter is delayed at the request of the applicant, the temporary permit issued under the provisions of this subsection shall expire as of the date the hearing was scheduled by the director, unless the applicant shows good cause for the delay.
- (d) Any applicant issued a temporary permit under the provisions of this section shall comply, or continue to comply, with the provisions of this chapter. Additionally, an applicant issued a temporary permit under the provisions of this section shall be subject to the penalty provisions provided in this chapter.
- (e) If the application for renewal of a permit is not made during the time provided in subsection (a) or (b) of this section, the permit shall expire and the permittee shall cease those activities authorized under this chapter and the permittee shall file a new application and meet all requirements of this chapter before engaging in the business or occupations regulated under this article. An application for renewal filed after the expiration date shall be treated as a new application.

(Ord. No. 3.915, art. V, § 1, 5-10-2004)

CHAPTER 155. TOBACCO, ALTERNATIVE NICOTINE, AND VAPOR PRODUCTS⁴¹

⁴¹Editor's note(s)—Ord. No. 4.336, § 1, adopted Feb. 8, 2016, changed the title of ch. 155 from "Cigarettes" to "Tobacco, Alternative Nicotine, and Vapor Products."

Sec. 5.155.010. 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:

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.

Cigarette means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

Distribution means to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense, or issue.

Employee means any person who may be required or directed by any employer in consideration of direct or indirect gain or profit, to engage in any employment, or to go, or work, or be at any time in any place of employment.

Employer means any person, firm, corporation, agent, manager, representative, or other person having control or custody of any employment, place of employment, or employee.

Minor means a person under 21 years of age.

Occupation license tax means the occupation license tax is the tax imposed by the city under this chapter upon the business and for the privilege of selling cigarettes at retail in the city.

Package means a quantity of cigarettes wrapped and sealed in paper, tinfoil or otherwise by the manufacturer of cigarettes prior to being placed in cartons and for shipment from the manufacturer.

Retail dealer means any person other than a wholesale dealer, jobber or manufacturer engaged in the business of selling or disposing of cigarettes, by personal handling or through a tobacco vending machine, to the ultimate consumer or agent.

Sale means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for consideration or any agreement therefor.

Stamp shall not only include a small piece of paper with such printing thereon as may be prescribed by the city collector which, when affixed to a package of cigarettes and cancelled, shall evidence payment of the occupation tax thereon, but it shall also include the impression or printing of a meter machine when used in lieu of a stamp.

Tobacco product means any substance containing tobacco leaf including, but not limited to, blunt wraps, 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 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 a solution or other form that may or may not contain nicotine. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or 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.

Vending machine means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, tobacco products, alternative nicotine products, or vapor products upon the insertion of coins, trade checks, slugs or credit cards.

Wholesale dealer means any person authorized to sell, distribute, deliver, convey or give away cigarettes to retail dealers or other persons in the city, for the purpose of resale only.

(Code 1974, § 17-31; Ord. No. 3.407, § 1, 9-26-1994; Ord. No. 4.336, § 2, 2-8-2016)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 5.155.020. Licenses required; amount of tax.

- (a) *Registration.* Every wholesale dealer, jobber, retail dealer, manufacturer or other person engaged in selling cigarettes or offering, delivering or displaying cigarettes for sale within the city shall procure a license therefor for each place selling or offering cigarettes for sale, and at the same time such license is issued, shall pay to the city collector the sum of \$1.00, as a registration fee for each such place of business.
- (b) *Occupation license tax.* In addition to the registration fee, every retailer shall pay an occupation tax at the rate of \$3.00 per 1,000 for all cigarettes sold, offered, delivered or displayed for sale or otherwise disposed of and for all cigarettes in such retailer's possession.

(Code 1974, § 17-32)

Sec. 5.155.030. Dealers' and manufacturers' licenses; manner of payment of tax.

- (a) *Manner of payment of tax.* The tax provided by subsection 5.155.020(b) shall be paid by purchase from the city collector of stamps of such design and denomination as may be prescribed by the city council or printing by use of a meter machine; or, alternatively, by payment of such license occupation tax contemporaneously with delivery of the sales report pursuant to the provisions of subsection (b) of this section. In the sale of such stamps or where printing by a meter machine is used in lieu of stamps, the collector shall allow a discount of ten percent of the denominational or face value thereof.
- (b) *Duty of wholesaler.* It shall be the duty of every wholesaler or jobber, before delivering to any retailer or other person cigarettes for sale at retail in the city:
 - (1) To affix to each package of cigarettes a stamp purchased from and furnished by the city collector or meter impression by use of a meter machine which stamp or printing so affixed shall evidence the payment to the tax imposed by this section and such stamp shall be cancelled as soon as such stamp shall be affixed to the package containing such cigarettes. Before printing evidence of payment of the tax on any package of cigarettes, there shall be paid to the city collector a tax at the rate of \$3.00 per 1,000 for each and all cigarettes to be marked, less a discount of ten percent as hereinbefore provided; or
 - (2) To agree to provide to the city a report showing daily purchases and returns of each package of cigarettes by each retail dealer and vending machine operator within the city which report shall net out the dollar amount due the city for the occupation license tax by the month. The reporting form shall be approved by the city and shall be due not later than the 15th day of each month for the preceding month. Each wholesale dealer or jobber shall authorize the city to verify such reports with information provided to the state department of revenue.

(Code 1974, § 17-33; Ord. No. 3.562, § 1, 11-11-1996)

Sec. 5.155.040. Wholesale dealers—Credit for stamps.

- (a) *Privilege.* Any wholesale dealer, who shall have in his/her possession the license required under section 5.155.020, shall have the privilege of applying for and establishing credit with the director of finance for the purchase of cigarette stamps. The form of application shall be determined by the city collector and the granting of credit shall be approved by the director of finance.
- (b) *Conditions.* Where prior to any such purchase a wholesale cigarette dealer has filed with the city collector a corporate surety bond approved by the city collector, such wholesale cigarette dealer shall be permitted to purchase stamps and remit therefor to the city collector within 30 days after each such purchase, up to a maximum outstanding at any one time of 85 percent of the amount of the bond.
- (c) *Failure to pay tax when due.* Any person who fails to pay all license taxes promptly when due shall be notified that the city council has suspended such person's license, and that such person has breached the conditions of the bond required of such persons under section 5.155.050. Upon revocation of any license, the city counselor shall be authorized to file suit on the bond required in section 5.155.050 to enforce the collection of the taxes due from the obligee under such bond.

(Code 1974, § 17-34)

Sec. 5.155.050. Same—Amount, condition, etc., of bond.

Every person, who shall obtain credit, as provided under section 5.155.040, for the purchase of cigarette license tax stamps or meter impressions, as provided in section 5.155.030, shall execute and file a corporate surety bond with the city in an amount not less than the average monthly tax liability of such person, but in no case shall the bond required be less than \$1,000.00 with a surety company to be approved by the city collector and the city counselor, as surety for the use and benefit of the city, conditioned upon the timely payment of the license tax as provided under section 5.155.040. The form of the bond shall be determined by the city collector with the approval of the city counselor.

(Code 1974, § 17-35)

Sec. 5.155.060. Sale at retail without payment of tax or affixing tax stamps; counterfeiting, altering, etc., stamps; tampering with meter machines.

No person shall possess, sell or offer or display for sale at retail any cigarettes unless on the container thereof there has been affixed a state decal, the occupation license tax has been paid thereon, and evidence of payment has been made pursuant to section 5.155.030; nor shall any person falsely or fraudulently make, forge, alter or counterfeit any stamp or the printed markings of a meter machine as shall be prescribed by the city collector, or procure or cause to be falsely or fraudulently made, forged, altered or counterfeited any such stamp or the printed markings of a meter machine, or knowingly and willfully utter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or printed markings of a meter machine: nor shall any person tamper or interfere with the operation of any cigarette tax stamp meter machine, or change, disturb, or interfere with the property registration by any such meter machine of the correct number of meter impressions of cigarette tax stamps made by such meter machine; nor shall any person use, operate or assist in the use or operation of any cigarette tax stamp meter machine which is defective, or which does not properly and accurately register every tax impression made by such machine; nor shall any person sell, offer for sale, display or have or retain in such person's possession one or more packages of cigarettes which have impressed thereon or attached thereto any false, spurious or counterfeit cigarette tax stamps, or any such meter impressions of cigarette tax stamps, nor shall any person knowingly or with intentional disregard file a false report as required in section 5.155.030.

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(Supp. No. 9)

(Code 1974, § 17-36; Ord. No. 3.562, § 2, 11-11-1996)

Sec. 5.155.070. Sale or dispensing of cigarettes from tobacco vending machines without payment of tax; confiscation of machine.

It shall be unlawful for any person to sell and dispense through a tobacco vending machine any cigarettes upon which the tax has not yet been paid. Any tobacco vending machine which shall be operated in violation of the provisions of this chapter may, together with the merchandise therein, be seized and confiscated by the city manager or the city manager's duly authorized representative or by the ~~department of public safety~~ police department; provided, however, that all moneys found in any confiscated tobacco vending machine shall be held by the ~~department of public safety~~ police department and returned to the lawful owner thereof upon proper showing of ownership after all fines, charges and penalties have been paid.

(Code 1974, § 17-37; Ord. No. 3.562, § 3, 11-11-1996)

Sec. 5.155.080. Illegal distribution of cigarettes, cigarette wrappers, tobacco, tobacco products, alternative nicotine products, and vapor products; duty of retailer to post notice.

It is unlawful for any manufacturer, producer, distributor, wholesaler or retailer of cigarettes, cigarette wrappers, alternative nicotine products, vapor products or any other tobacco products or any agent, employee or representative of a manufacturer, producer, distributor, wholesaler or retailer of cigarettes, cigarette wrappers, alternative nicotine products, vapor products or any other tobacco products to do any of the following:

- (1) Give, sell or otherwise distribute cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products, or any other tobacco products to any minor;
- (2) Give, sell or distribute cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products, or any other tobacco products in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products, or any other tobacco products to a person under 21 years of age is prohibited by law;
- (3) Give, sell or distribute cigarettes, cigarette wrappers, tobacco, alternative nicotine products, vapor products or any other tobacco products to any person without first verifying, via a photo identification such as drivers license, that the person is 21 years of age or older.

(Code 1974, § 17-38; Ord. No. 3.407, § 2, 9-26-1994; Ord. No. 4.336, § 3, 2-8-2016)

Sec. 5.155.090. Vending machines prohibited.

Notwithstanding anything in this chapter to the contrary, it is unlawful to install, place or permit the use of any vending machine in any establishment which is open to minors, except in a place where the machine is not accessible to or cannot be used by minors; provided, however, that this section shall not apply to the installation and use by the proprietor, the proprietor's agent or employees, of vending machines behind a counter or in some place in any establishment in which access by minors is prohibited by law; provided, further, this section shall not apply to the installation and use of a vending machine in commercial buildings where the public is not usually admitted and where such machines are intended for the sole use of the employees who are not minors.

(Ord. No. 3.407, § 3(17-38.5), 9-26-1994; Ord. No. 4.336, § 4, 2-8-2016)

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(Supp. No. 9)

Sec. 5.155.100. Application for issuance of license; restrictions; duplicates; suspension and revocation.

- (a) *Application; issuance.* Every application for a cigarette license shall be made upon a form prescribed, prepared and furnished by the city collector and shall set forth such information as the city collector shall require. Upon approval of the application, the city collector shall grant and issue to the applicant a cigarette license as provided in this chapter.
- (b) *Restrictions.* Cigarette licenses shall not be assignable and shall be valid only for the persons in whose names issued, and for the transaction of business in the places designated therein and shall at all times be conspicuously displayed at the places for which issued. All permits shall expire on June 30 in each and every year, unless sooner suspended, surrendered or revoked by the city manager.
- (c) *Duplicates.* Whenever any license issued under the provisions of this section is defaced, destroyed or lost, the city collector shall issue a duplicate license for the defaced, destroyed or lost permit upon the payment of a fee of \$0.50.
- (d) *Suspension or revocation.* The city manager may suspend or after hearing revoke a cigarette license whenever it is found that the holder thereof has failed to comply with any of the provisions of this chapter or any rules or regulations prescribed or promulgated under this chapter. Upon suspending or revoking any cigarette permit, the city manager shall request the holder to surrender to the city manager immediately all license cards or tokens or duplicates thereof and the holder shall surrender promptly all such licenses or tokens to the city collector as requested, together with all stamps, if any, in such person's possession which such person has not affixed to packages of cigarettes, and the city treasurer is hereby authorized to refund all money paid for such stamps. Whenever the city manager suspends a cigarette license, the city manager shall notify the holder immediately and afford the license holder a hearing, if desired, if the hearing has not already been afforded. After such hearing, the city manager shall either rescind the order of suspension or, good cause appearing therefor, shall continue the suspension or revoke the license.

(Code 1974, § 17-39)

Sec. 5.155.110. Retailers receiving cigarettes for which no occupation license tax has been paid.

- (a) *Duty of retailer.* Whenever a retail dealer or other authorized person engaged in the business of selling cigarettes shall obtain or receive and have in such retail dealer's or person's possession for resale at retail in the city packages of cigarettes upon which neither stamps have been affixed, nor the printed markings of an authorized meter machine, nor a written report from the wholesale dealer or jobber evidencing the payment of the cigarette tax imposed by this chapter, such person shall immediately return the cigarettes to the vendor for the affixing of tax stamps thereon, or the printed markings of an authorized meter machine, or the payment of such tax pursuant to written report.
- (b) *Presumption.* Whenever cigarettes in commercial quantities are found in the place of business of a retail dealer or other person, or in a tobacco vending machine without evidence of payment of the tax imposed by the article in possession of the owner, the presumption shall be that such cigarettes shall be declared contraband and the possession thereof shall be in violation of the provisions of this chapter.

(Code 1974, § 17-40; Ord. No. 3.562, § 4, 11-11-1996)

Sec. 5.155.120. Records and reports.

- (a) *Retailers and wholesalers.* For the purpose of enabling the city manager to properly enforce the terms of this chapter as to such wholesale dealers, each wholesale dealer or jobber shall furnish on or before the 15th of each month a true report for the preceding month of sales and deliveries showing the date thereof, the amount of each sale, the name and address of the retail dealer to whom delivery is made and whether or not all such cigarettes bore a lawful stamp or authorized meter impression or whether the cigarette tax was paid with the filing of the reporting form. The city manager may require similar reports from all retail dealers.
- (b) *Public carriers.* The city manager, by regulation, may provide that whenever cigarettes are shipped into the city, the express company, trucking company or other public carrier transporting any shipment thereof shall file with the city collector a copy of the freight bill within ten days after the delivery in the city of each shipment.
- (c) *Preservation of records.* All wholesale dealers, jobbers and retail dealers within the city shall maintain and keep for a period of three years such records of cigarettes received, sold or delivered within the city as may be required by the city manager.

(Code 1974, § 17-41; Ord. No. 3.562, § 5, 11-11-1996)

Sec. 5.155.130. Penalties.

Any wholesaler, jobber or retailer of cigarettes found making false statements, knowingly or otherwise, in the required reports, the effect of which would be to reduce the amount of tax due, shall pay to the city collector, upon demand therefor, the additional amount of tax found to be due, plus a penalty of 25 percent of such additional amount, with interest on the additional tax of one percent for each month, or fraction thereof, after the date when due. This penalty shall be in addition to other penalties allowed hereunder for violation of the city Code.

(Code 1974, § 17-42; Ord. No. 3.562, § 6, 11-11-1996)

Sec. 5.155.140. Verification of tax.

- (a) *Inspections authorized.* The city manager or the city manager's duly authorized representative is hereby authorized to examine books, records, invoices, papers, stocks of cigarettes in and upon any premises where the books, records, invoices, papers and stocks of cigarettes are placed, stored or sold, and the equipment of any such wholesale dealer or jobber pertaining to the sale and delivery of cigarettes taxable under this chapter. To verify the accuracy of the occupation tax imposed and assessed by this chapter, each such person is hereby directed and required to give to the city manager, or the city manager's duly authorized representative, the means, facilities and opportunity for such examinations as are provided for and required in this chapter.
- (b) *Inspections of vehicles.* The city manager or the city manager's duly authorized representative shall have authority to enter upon trucks or other vehicles known to be engaged in the business of delivering cigarettes in the city for resale at retail, for the purpose of examining the contents of such trucks or other vehicles in search of evidence of violation of the provisions of this chapter.
- (c) *Segregation of deliveries.* Any person making delivery of cigarettes in the city consigned to more than one customer shall segregate the deliveries sufficiently to disclose the names and addresses of the retailers.

(Code 1974, § 17-43)

Sec. 5.155.150. Authority of city manager to promulgate rules and regulations.

In addition to the powers granted in this chapter to the city manager, the city manager is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to:

- (1) *Cancellation.* The method and means to be used in the cancellation of stamps, if any.
- (2) *Denomination; sale.* The denomination and sale of stamps.
- (3) *Meter machines.* The method and means of using meter machines used in printing on packages of cigarettes evidence of the payment of the tax.
- (4) *Delegation of powers.* The delegation of powers to a deputy or employee of the city manager's office.
- (5) *Other matters.* Any other matter or thing pertaining to the administration and enforcement of this chapter.

(Code 1974, § 17-44)

Sec. 5.155.160. Refund for stamps purchased.

Whenever any cigarettes, upon which a tax has been paid to the city, have been sold and shipped by a wholesale dealer, jobber or retail dealer into another city or state for sale or use there, or have become unfit for use and consumption or are unsaleable, or have been destroyed, such wholesale dealer, jobber or retail dealer shall be entitled to a refund of the actual amount of tax paid by such person on such cigarettes, less any applicable discounts. If the city manager is satisfied that any wholesale dealer, jobber or retail dealer is entitled to a refund, the city manager shall void the stamps and shall issue a refund therefor. The city manager is hereby authorized to adopt, prescribe and promulgate such rules and regulations with regard to the presentation and proof of claim for refunds as the city manager may deem expedient and furnish the rules and regulations to interested parties.

(Code 1974, § 17-45; Ord. No. 3.562, § 7, 11-11-1996)

Sec. 5.155.170. Seizure and sale of unstamped cigarettes.

- (a) *Seizure.* Whenever the city manager or any of the city manager's duly authorized representatives or any ~~public safety~~ police officer shall discover any cigarettes, subject to tax provided by this chapter, and upon which such occupation tax has not been paid or the stamps affixed as required in this chapter or evidence of payment shown by the printed markings of a meter machine as required in this chapter, the city manager or such representative, or such ~~public safety~~ police officer, is hereby authorized and empowered forthwith to seize and take possession of such cigarettes, together with any vending machine or other automatic mechanical device for selling and dispensing cigarettes or receptacles in which they are held for sale, and the cigarettes, vending machines, mechanical devices and receptacles shall thereupon be deemed to be forfeited to the city.
- (b) *Sale.* The city manager may, within a reasonable time thereafter, by public notice at least five days before the day of sale, sell such forfeited vending machines or devices and the cigarettes at a place designated by the city manager, and from the proceeds of such sale, shall collect the tax due thereon, together with a penalty of 50 percent thereof and the costs incurred in such proceedings.
- (c) *Authority of city collector.* The city collector shall pay the balance, if any, to the person in whose possession such forfeited cigarettes were found; provided, however, that such seizure and sale shall not be deemed to relieve any person from fine or imprisonment provided for violation of any provision of this chapter.

(Code 1974, § 17-46)

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(Supp. No. 9)

Sec. 5.155.180. Authority of city manager to administer oaths, subpoena witnesses, etc.

The city manager or the city manager's duly designated representative shall have the power to administer oaths and take affidavits in relation to any matter or proceedings in the exercise of the city manager's or manager's designated representative's powers and duties under this chapter. The city manager shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of their duties under this chapter and the enforcement of this chapter and to examine them in relation thereto.

(Code 1974, § 17-47)

Sec. 5.155.190. Penalties for certain violations.

Any person violating any of the provisions of sections 5.155.020, 5.155.030 and 5.155.060—5.155.140, except sections 5.155.080 and 5.155.090, and in addition to any other penalty provided in this article, shall be deemed guilty of a misdemeanor and punished as provided in section 1.100.140 of this Code and the city council may, in its discretion, revoke the permit or license of any such person and, upon a second conviction thereof, such person shall be fined in the sum of not less than \$25.00 and not more than \$200.00 and the city council shall revoke the permit or license of any such person; provided, however, that after the expiration of one year from the date of such revocation, the city council may issue a new permit to such person.

(Code 1974, § 17-48)

Sec. 5.155.200. Penalty for violations of sections 5.155.080 and 5.155.090.

Any person, firm or corporation violating any provision of sections 5.155.080 and 5.155.090 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in the sum of not less than \$20.00 and not more than \$500.00. The city council may, in its discretion, revoke the permit or license of any such person upon more than one conviction of an offense under this sections 5.155.080 and 5.155.090; provided, however, that after the expiration of one year from the date of such revocation, the city council may issue a new permit to such person. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. No. 3.407, § 4, 9-26-1994)

CHAPTER 160. SOLICITATION

ARTICLE 1. IN GENERAL

Sec. 5.160.010. 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:

Canvasser means any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, for the primary purpose of presenting or discussing a particular religion, philosophy, political position or party or candidate, even if the canvasser accepts or requests donations, where the acceptance or request for donations is only incidental to the purpose of the canvass.

(Supp. No. 9)

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Canvassing includes all activities ordinarily performed by a canvasser as defined under the definition of "canvasser."

Charitable means and includes the word "patriotic," "philanthropic," "social," "service," "health," "welfare," "benevolent," "educational," "civic," "religious," "cultural" or "fraternal," either actual or purported.

Contributions means and includes the words "alms," "money," "subscription," "property" or any donations under the guise of a loan or money or property.

Department means the department of ~~public safety~~ police department.

~~Director~~ Chief of Police means the ~~director of public safety~~ Chief of Police or ~~the director's~~ their authorized representative.

Peddler means any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. This definition also includes any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of the scheme to evade the provisions of this chapter.

Peddling includes all activities ordinarily performed by a peddler as indicated under the definition of "peddler."

Person means a natural person or any firm, corporation, association, club, society or other organization.

Solicitor means any person who goes upon the premises of any private residence in the city, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future.

Solicitation includes all activities ordinarily performed by a solicitor as defined under the definition of "solicitor."

(Ord. No. 3.610, § 1(26-1), 6-23-1997; Ord. No. 3.878, § 1(26-1), 8-11-2003; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 5.160.020. Permit requirements and exemptions.

- (a) It shall be unlawful for any person 18 years of age or older to engage in peddling or solicitation activities within the city without first obtaining a permit issued by the city; provided, however, that the following are exempted from the provisions of this section:
- (1) Any solicitation made upon premises owned or occupied by an organization or business upon behalf of which or with the consent of which the solicitation is made;
 - (2) Any communication by an organization soliciting contributions solely from persons who are members of the organization at the time of such solicitation;
 - (3) Any solicitation in the form of a collection at a regular meeting, assembly or service of a charitable organization;
 - (4) Any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected shall be turned over to the named beneficiary;
 - (5) Any canvassing as defined in section 5.160.010; or

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- (6) Any distribution of handbills, flyers, pamphlets, or other written materials to residences, without attempting to directly contact or speak with the resident, that advertise or promote a political, religious, charitable, or other noncommercial position, event, or service.

- (b) A person involved in canvassing or distribution of handbills, flyers, pamphlets, or other written materials may obtain a permit, without payment of a fee, if such person chooses to obtain a permit for purposes such as identification of the person or notification to the city of the person's activities.

(Ord. No. 3.610, § 1(26-2), 6-23-1997; Ord. No. 3.878, § 1(26-2), 8-11-2003; Ord. No. 3.906, § 2, 3-8-2004; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

State law reference(s)—Licensing of peddlers, RSMo 150.470 et seq.

Sec. 5.160.030. Permit for sponsoring juvenile peddlers.

- (a) No person under the age of 18 years shall be permitted to engage in peddling except as provided in this section.
- (b) A permit shall be obtained by a sponsoring person, company or organization for the conduct of any peddling or solicitation activities involving, in whole or in part, a sales force of one or more persons under 18 years of age.
- (c) The sponsor shall be responsible for supervising and controlling the conduct of all persons, including juveniles, peddling under the sponsor's permit.
- (d) The sponsor shall provide to each individual in its sales force a badge, uniform or other easily readable form of identification which identifies the name of the sponsor and the name of the individual. The sponsor shall require all individuals in its sales force to wear such identification so that it is clearly visible at all times when the individuals are peddling or soliciting.
- (e) Persons under 18 years of age shall be exempt from the requirement to obtain a permit when engaged in the solicitation of funds or sales of goods or services for the support of religious, educational, athletic, artistic, community service or similar activities where the person engaged in the solicitation is a direct participant in the activity for which the solicitation is conducted and is not being compensated for the solicitation activities, other than by participation in the activities being supported by the solicited donations.

(Ord. No. 3.610, § 1(26-3), 6-23-1997; Ord. No. 3.878, § 1(26-3), 8-11-2003; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.040. Permit application.

Every person subject to the provisions of this chapter shall file with the ~~director~~Chief of Police an application in writing, which shall provide the following information:

- (1) Proof of age, address and identification of the applicant, to be provided through the applicant's driver's license, articles of incorporation (for sponsors), or other legally recognized form of identification;
- (2) A brief description of the business or activity to be conducted;
- (3) The hours and location for which the right to peddle or solicit is desired;
- (4) If employed, the name, address and telephone number of the employer; or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and authority of the employee or agent to act for the employer or principal, as the case may be;

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- (5) A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof;
 - (6) 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 business, or which, under any such law or regulation, would exempt the applicant from the licensing requirements of this chapter; and
 - (7) Two photographs of the applicant which shall have been taken within 60 days immediately prior to the date of filing of the application. The photographs shall measure two inches by two inches and show the head and shoulders of the applicant in a clear and distinguishing manner. At the request of applicant, the photographs may be taken by the ~~department of public safety~~police department.

(Ord. No. 3.610, § 1(26-4), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.050. Fees.

At the time the application is filed with the ~~director~~Chief of Police, the applicant shall pay a fee to cover the cost to the city of processing the application and investigating the facts stated therein. The application fee shall be \$35.00 for each permit requested. The application fee shall not be refunded in the event the permit is denied. No fee shall be required of any person engaged in canvassing or distribution of handbills, flyers, pamphlets, or other noncommercial materials.

(Ord. No. 3.610, § 1(26-5), 6-23-1997; Ord. No. 3.878, § 1(26-5), 8-11-2003; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.060. Bond.

All solicitors requiring cash deposits or taking orders for cash on delivery purchases (COD) or who require a contract of agreement to finance the sale of any goods, services, or merchandise for future delivery, or for services to be performed in the future, shall furnish to the ~~director~~Chief of Police a bond, letter of credit or other form of security approved by the city in the amount of \$5,000.00 or in the amount of anticipated revenues/sales to be generated within the city, whichever amount is greater.

(Ord. No. 3.610, § 1(26-6), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.070. Application review and permit issuance.

- (a) Upon receipt of an application, the ~~director of public safety~~Chief of Police, or authorized representative, shall review the application as deemed necessary to ensure the protection of the public health, safety and general welfare.
- (b) If the ~~director of public safety~~Chief of Police finds the application to be satisfactory, the ~~director~~Chief shall endorse an approval on the application and shall, upon proof of payment of the prescribed fee, provide the required permit to the applicant.
- (c) The permit shall show the name, address and photograph of the permittee, the class of permit issued, the kind of goods or services to be sold or delivered, the date of issuance, and the length of time that the permit shall be in effect. If the permit is issued to a sponsor of juvenile peddlers, one permit shall be issued to the sponsor only. Any solicitor or peddler who has attained the age of 18 or older shall have a separate permit. The permit shall also show the permit number and identifying description of any vehicle to be used in carrying on the business for which the permit is issued.

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- (d) A record of all permits issued shall be maintained by the ~~department of public safety~~police department for a period of two years.

(Ord. No. 3.610, § 1(26-7), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.080. Denial of permit.

- (a) Upon the ~~director of public safety's~~Chief of Police's review of the application, the ~~Chief director~~ may refuse to issue a permit to the applicant under this chapter for any of the following reasons:
- (1) The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;
 - (2) An investigation reveals that the applicant falsified information on the application;
 - (3) The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, or any acts of violence against persons or property;
 - (4) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five years immediately preceding the date of application;
 - (5) There is no proof as to the authority of the applicant to serve as an agent to the principal; or
 - (6) The applicant has been denied a permit under this chapter within the immediate past year, unless the applicant can and does show to the satisfaction of the ~~director~~Chief of Police that the reasons for such earlier denial no longer exist.
- (b) The ~~Chief of Police's~~director's disapproval and the reasons for disapproval shall be noted on the application, and the applicant shall be notified that such applicant's application is disapproved and that no permit will be issued. Notice shall be mailed by the ~~Chief of Police~~director to the applicant at the address shown on the application form, or at the applicant's last known address.

(Ord. No. 3.610, § 1(26-8), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.090. Permit expiration.

All permits issued under the provisions of this chapter shall expire one year from the date of issuance, unless an earlier expiration date is noted on the permit.

(Ord. No. 3.610, § 1(26-9), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.100. Identification badges.

At the same time the permit is issued, the ~~director~~Chief of Police shall issue to each permittee an identification card, which shall be worn or displayed by the permittee in such a way as to be conspicuous at all times while the permittee is soliciting or peddling in the city.

(Ord. No. 3.610, § 1(26-10), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.110. Permit exhibition.

Every person required to obtain a permit under the provisions of this chapter shall exhibit the permit when requested to do so by any prospective customer, member of the public or ~~department of public safety~~police ~~department~~ employee.

(Ord. No. 3.610, § 1(26-11), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.120. Notice of activity.

Every person required to obtain a permit under the provisions of this chapter shall provide notice to the ~~department of public safety~~police ~~department~~ 48 hours prior to commencement of solicitation activities within the city. Such notice shall contain the dates solicitation activities will occur and the general areas of the city in which solicitation will be performed by the permittee.

(Ord. No. 3.610, § 1(26-12), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.130. Transfer prohibited.

It shall be unlawful for any person other than the permittee to use or wear any permit or badge issued under the provisions of this chapter. Any change in business activity by the permittee shall require the permittee to obtain a new permit.

(Ord. No. 3.610, § 1(26-13), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.140. Entry upon signed premises unlawful.

It shall be unlawful for any person, whether licensed or unlicensed, while conducting the business of a peddler or solicitor, 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 words of similar import. Any sign posted at the entry to the premises which is a minimum of ten square inches shall be presumed to be adequate notice to a solicitor.

(Ord. No. 3.610, § 1(26-14), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.150. Hours of solicitation.

No person, while conducting the activities of a peddler or solicitor, whether licensed or unlicensed, shall enter upon any private property, knock on doors or otherwise disturb persons in their residences between the hours of sunset or 5:00 p.m., whichever is earlier, and 9:00 a.m., except when invited to the residence by the owner or occupant thereof.

(Ord. No. 3.610, § 1(26-15), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.160. Permit revocation.

- (a) Any permit issued under this chapter may be revoked or suspended by the ~~director of public safety~~Chief of Police, or authorized representative, for any of the following reasons:

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- (1) Fraud, misrepresentation or false statement contained in the application for a permit;
 - (2) Fraud, misrepresentation or false statement made by the permittee in the course of conducting solicitation or peddling activities;
 - (3) Conducting peddling or solicitation activities contrary to the provisions contained in the permit;
 - (4) Conducting peddling or solicitation activities contrary to the ordinances or this Code;
 - (5) Conviction for any crime involving moral turpitude; or
 - (6) Conducting peddling or solicitation activities in such a manner as to create a public nuisance, constitute a breach of the peace or endanger the health, safety or general welfare of the public.
- (b) Notice of such revocation shall be made by hand delivering such notice to the individual whose permit is revoked or by mailing such notice to the person's address by certified mail as shown on the permit application form, or to the person's last known address.

(Ord. No. 3.610, § 1(26-16), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.170. Appeals.

- (a) Any person aggrieved by the action or decision of the ~~director~~ Chief of Police to deny, suspend or revoke a permit applied for under the provisions of this chapter shall have the right to appeal such action or decision to the city manager within 15 days after the notice of the action or decision has been hand delivered to the person or mailed to the person's address as provided in subsection 5.160.160(b).
- (b) An appeal shall be taken by filing with the ~~director~~ Chief of Police a written statement setting forth the grounds for the appeal.
- (c) The ~~director~~ Chief of Police shall transmit the written statement to the city manager within ten days of its receipt and the city manager shall set a time and place for a hearing on the appeal.
- (d) A hearing shall be set not later than 20 days from the date of receipt of the appellant's written statement.
- (e) Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.
- (f) The decision of the city manager of the appeal shall be final and binding on all parties concerned.

(Ord. No. 3.610, § 1(26-17), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.180. Claims of exemption.

Any person claiming to be legally exempt from the regulations set forth in this chapter, or from the payment of a permit fee, shall cite to the ~~director~~ Chief of Police the statute or other legal authority under which exemption is claimed and shall present to the ~~director~~ Chief proof of qualification for such exemption.

(Ord. No. 3.610, § 1(26-18), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.190. Violations and penalty.

In addition to permit revocation set forth in this chapter, violation of any of the provisions of this chapter shall, upon conviction, be punishable by a fine not exceeding \$500.00, or by imprisonment for a period of time not exceeding 90 days, or by both such fine and imprisonment. Each day any violation of this chapter shall continue

shall constitute a separate offense. In addition, the city or any individual may pursue any available civil remedies deemed appropriate and necessary.

(Ord. No. 3.610, § 1(26-19), 6-23-1997; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

*ARTICLE 2. AGGRESSIVE SOLICITATION*⁴²

⁴²Cross reference(s)—Streets and sidewalks, § 8.120.010Cross reference(s)— et seq.

Sec. 5.160.200. Legislative findings.

- (a) The city council finds that the increase in aggressive solicitation throughout the metropolitan area has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and enjoyment of public places, but also to an enhanced sense of fear, intimidation and disorder.
- (b) The city council finds that aggressive solicitation usually includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional or unintentional blocking of pedestrian and vehicular traffic. The council further finds that the presence of individuals who solicit money from persons at or near banks automated teller machines, or in public transportation vehicles is especially troublesome because of the enhanced fear of crime in those confined environments. Motorists also find themselves confronted by persons seeking money who, without permission, wash their automobile windows at traffic intersections, despite explicit indications by drivers not to do so. Such activity carries with it an implicit threat to both persons and property. Persons soliciting money or services from people driving on the public streets obstruct traffic and create a dangerous situation where the threat of bodily injury to themselves or others is increased.
- (c) The law is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity. Rather, its goal is to protect citizens from the fear and intimidation and the risk to the motoring public accompanying certain kinds of solicitation that have become an unwelcome presence in the city and to allow for adequate means of communication of such constitutionally protected activity.

(Ord. No. 3.720, § 2, 8-23-1999; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.210. 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:

Aggressive manner means and includes:

- (1) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- (2) Following the person being solicited, if that conduct is:
 - a. Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - b. Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (3) Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is:
 - a. Intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - b. Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

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- (4) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a street use permit issued pursuant to this chapter, shall not constitute obstruction of pedestrian or vehicular traffic;
 - (5) Intentionally or recklessly using obscene or abusive language or gestures:
 - a. Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - b. Words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or
 - (6) Approaching the person being solicited in a manner that:
 - a. Is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - b. Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

Automated teller machine means a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

Automated teller machine facility means the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

Bank means any financial institution or banking corporation doing business within the corporate limits of the city.

Check cashing business means any person duly licensed by the superintendent of banks to engage in the business of cashing checks, drafts or money orders for consideration pursuant to the provisions of the banking laws.

Public area means an area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing such areas.

Solicit means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

(Ord. No. 3.720, § 2, 8-23-1999; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 5.160.220. Prohibited acts.

It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

- (1) In an aggressive manner in a public area;
- (2) In any public transportation vehicle, or bus or bus stop;

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- (3) Within 15 feet of any entrance or exit of any bank or check cashing businesses or within 15 feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
 - (4) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or
 - (5) From an operator of a motor vehicle that is in traffic on a public street, whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle or to any permittee holding a valid street use permit.

(Ord. No. 3.720, § 3, 8-23-1999; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.230. Street use permit.

- (a) *Street use permit allowed.* Any individual or organization shall have the right to file an application with the ~~department of public safety~~police department to obtain a permit to utilize the public street for purposes of solicitation or the expression of other forms of constitutionally protected speech. The permit shall grant the individual and/or organization the right to utilize the public street at designated locations between the hours of sunrise and sunset for such purposes subject to the regulations contained in this article. Any person engaging in aggressive solicitation on the public street pursuant to a street use permit shall be at least 60 inches in height and shall wear an orange safety vest.
- (b) *No obstruction.* The permit issued hereunder shall not allow any individual to block the safe or free passage of the person being solicited on the street, obstruct the flow of traffic on the street or require the person or driver of a vehicle to take evasive action to avoid physical contact with the person making the solicitation. To ensure that the permittee does not unreasonably interfere with traffic, the permittee shall remain on the sidewalk (or on the adjacent unpaved right-of-way if there is no sidewalk) unless the occupant of a vehicle indicates a desire for the permittee to enter the street for the purpose of approaching the vehicle.
- (c) *Limitation on issuance of permits.* Each individual and/or organization shall be limited to one full day street use permit per calendar year. The permit shall be effective for one full day. A permit issued for five hours or less shall be considered a half day. The ~~public safety~~police department shall not issue more than one full day permit per month and such permits shall be issued on a first submitted, first issued basis. An application for a permit shall not be deemed to be submitted until the applicant provides all of the information required by this article to the city.
- (d) *Application.* An application for a street use permit shall be filed by the applicant with the police department ~~department of public safety~~. At a minimum, the application filed by the applicant with the city shall include the following information:
 - (1) The name, address and a phone number at which the applicant can be reached together with proof of age, address and identification of the applicant, to be provided through the applicant's driver's license, articles of incorporation (for corporations), or other legally recognized form of identification;
 - (2) If employed, the name, address and telephone number of the employer; or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and authority of the applicant to act for the employer or principal, as the case may be;

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- (3) 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 business, or which, under any such law or regulation, would exempt the applicant from the licensing requirements of this article;
 - (4) A brief description of the activity to be conducted;
 - (5) The date when street solicitation activities are desired;
 - (6) The hours and location where street solicitation activities are desired;
 - (7) The number of persons participating in solicitation activities;
 - (8) If any activities are to be conducted by any persons under the age of 18 years, a permit shall be obtained by a sponsoring adult, company or organization for the conduct of such minors. The sponsor shall be responsible for supervising and controlling the conduct of all juveniles soliciting under the sponsor's permit.
 - (9) A certificate of insurance evidencing that the applicant has public liability insurance in an amount sufficient to cover potential claims for any bodily injury, death, or disability and for property damage which may arise from or be related to the use allowed by the permit. The policy shall name the city as an additional insured, apply as primary insurance regardless of any insurance which the city may carry; and obligate the insurance company to give notice to the city at least 30 days before any cancellation of the policy. The insurance provided shall be in the following minimum amounts: \$100,000.00 per claim, \$300,000.00 per occurrence;
 - (10) A statement that applicant will indemnify and hold the city free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any person by reason of the use of the public street, as provided for in the application;
 - (11) A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof;
 - (12) An application fee to cover the cost to the city of processing the application and investigating the facts stated therein. The application fee shall be \$35.00 for each permit requested. The application fee shall not be refunded in the event the permit is denied; and

(13) Any other information requested by the ~~director of public safety~~Chief of Police.

(e) Approval by ~~director of public safety~~Chief of Police. The ~~director, or the director's~~Chief or their designee, shall review, approve and issue the permit as follows:

- (1) Upon receipt of an application, the ~~director of public safety~~Chief of Police, or authorized representative, shall review the application as deemed necessary to ensure the protection of the public health, safety and general welfare.
- (2) If the ~~director~~Chief finds the application to be satisfactory, the ~~director~~Chief shall endorse an approval on the application and shall, upon proof of payment of the prescribed fee, provide the required permit to the applicant. The permit shall be posted by the applicant at a main location where the solicitation activities will occur.
- (3) Upon the ~~director's~~Chief of Police's review of the application, the ~~director~~Chief may refuse to issue a permit to the applicant under this article for any of the following reasons:
 - a. The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;
 - b. An investigation reveals that the applicant falsified information on the application;

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- c. The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, or any acts of violence against persons or property;
 - d. The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five years immediately preceding the date of application;
 - e. There is no proof as to the authority of the applicant to serve as an agent to the principal; or
 - f. The applicant has been denied a permit under this article within the immediate past year, unless the applicant can and does show to the satisfaction of the ~~Chief of Police~~director that the reasons for such earlier denial no longer exist.

- (4) The ~~director's~~Chief of Police's approval or disapproval shall be noted on the application, and the applicant shall be notified of such action. Notice shall be mailed by the ~~director~~Chief of Police to the applicant at the address shown on the application form, or at the applicant's last known address.

- (f) *Revocation of permit.* Following issuance of a permit, upon determination by the ~~director of public safety~~Chief of Police, or their ~~director~~'s designee, that the activities conducted by such individual or organization pursuant to any permit issued hereunder are dangerous to the motoring public or unreasonably obstruct traffic or that the applicant is conducting a false or misleading solicitation as set forth in this article, the permit may be revoked by the ~~Chief of Police~~director and all street solicitation activities shall cease immediately. Notice of such revocation shall be made by hand delivering such notice to any individual conducting activities pursuant to the street use permit which is being revoked or by mailing such notice to the permittee's address by certified mail as shown on the permit application form, or to the permittee's last known address.

- (g) *Appeal of denial or revocation of permit.* Any person aggrieved by the action or decision of the ~~director~~Chief of Police to deny, suspend or revoke a permit applied for under the provisions of this article shall have the right to appeal such action or decision to the city manager within 15 days after the notice of the action or decision has been hand delivered to the person or mailed to the person's last known address. Such appeal shall be taken as follows:

- (1) A written statement setting forth the grounds for the appeal shall be filed with the ~~director~~Chief of Police;
- (2) The ~~Chief of Police~~director shall transmit the written statement to the city manager within ten days of its receipt and the city manager shall set a time and place for a hearing on the appeal;
- (3) A hearing shall be set not later than 20 days from the date of receipt of the appellant's written statement;
- (4) Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision;
- (5) The decision of the city manager shall be provided to the appellant in writing within 20 days from the date of the hearing;
- (6) The decision of the city manager on the appeal shall be final and binding on all parties concerned.

(Ord. No. 3.720, § 4, 8-23-1999; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.240. False or misleading solicitations.

It shall be unlawful for any person to knowingly make any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to, the following:

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- (1) Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet the need and does not disclose that fact;
 - (2) Stating that the donation is needed to meet a need which does not exist;
 - (3) Using a false business name to obtain donations;
 - (4) Stating that the donation is for a charitable purpose or charitable organization which does not exist;
 - (5) Stating that the solicitor is from out of town and stranded, when that is not true;
 - (6) Wearing a military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated;
 - (7) Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;
 - (8) Use of any makeup or device to simulate any deformity;
 - (9) Stating that the solicitor is homeless, when the solicitor is not;
 - (10) Stating the donation is for food, but in reality, is used for "sidewalk" drugs, or illegal contraband;
 - (11) Using and exposing minors/children to hazardous conditions, i.e., cold, heat, animals, weather, and/or strangers, to solicit funds;
 - (12) To offer to sell newspapers, magazines, periodicals, pamphlets for a price, which are offered free-of-charge to the general public;
 - (13) Fraud, misrepresentation or false statement contained in the application for a permit;
 - (14) Fraud, misrepresentation or false statement made by the permittee in the course of conducting solicitation or peddling activities; or
 - (15) Stating that funds solicited are needed for a specific purpose and then spending the funds received for a different purpose.

(Ord. No. 3.720, § 5, 8-23-1999; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

Sec. 5.160.250. Penalties.

Violation of any of the provisions of this article shall, upon conviction, be punishable by a fine not exceeding \$500.00 or by imprisonment for a period of time not exceeding 90 days, or by both such fine and imprisonment. Each day any violation of this article shall continue shall constitute a separate offense. In addition, the city or any individual may pursue any available civil remedies deemed appropriate and necessary.

(Ord. No. 3.720, § 6, 8-23-1999; Ord. No. 4.475, § 1(Exh. A), 6-24-2019)

CHAPTER 165. FARMER'S MARKET

Sec. 5.165.010. Farmer's market established.

A farmer's market is hereby established, to be operated within the City of Gladstone during the months of May through September each year, to be administered under rules and regulations established by the city's director of community development. The director of community development shall, among other provisions,

establish the location, times of operation, rental fees for marketing spaces, and other rules and regulations necessary for the orderly operation of the farmer's market.

(Ord. No. 4.119, § 1, 9-28-2009; Ord. No. 4.188, § 1, 4-25-2011)

Sec. 5.165.020. Participation; produce and products offered.

- (a) Vendors participating in the farmer's market should sell only fresh produce, or wares produced directly from agricultural produce, which they have grown themselves, or which has been grown on farms located within 150 miles of the City of Gladstone.
- (b) Produce and products offered for sale must be fresh, clean, handled and packaged in accordance with the guidelines for sales of agricultural products established by the Clay County Health Department and the state department of agriculture.
- (c) No more than three non-agricultural vendors may participate per market day except for special events being promoted at the market.

(Ord. No. 4.119, § 1, 9-28-2009; Ord. No. 4.188, § 1, 4-25-2011)

Sec. 5.165.030. Application; fees.

- (a) Each vendor shall make application and obtain an occupational license and pay the license fee established by the city council.
- (b) Each vendor shall maintain general liability insurance and present proof of coverage along with the application for a license.
- (c) Each vendor must also sign a farmer's market participation agreement with the City of Gladstone.

(Ord. No. 4.119, § 1, 9-28-2009; Ord. No. 4.188, § 1, 4-25-2011)

Sec. 5.165.040. Rental of marketing spaces.

- (a) Each vendor offering goods for sale at the farmer's market shall rent a vendor space for that purpose.
- (b) The size, location, rental fee, and other requirements for rental spaces shall be established by the director of community development.
- (c) All revenues derived from vendor space rental fees shall be applied to the restoration of the Atkins-Johnson Farm historic site.
- (d) The director of community development may cancel the market to allow for other events and will notify all vendors 15 days in advance of such special event.

(Ord. No. 4.119, § 1, 9-28-2009; Ord. No. 4.188, § 1, 4-25-2011)

Sec. 5.165.050. Enforcement.

The operation of the farmer's market shall be subject to the rules and regulations established by the director of community development. Each vendor shall be provided with a copy of the rules and regulations. The director of community development is authorized to suspend the vending privileges, and cancel the marketing space rental agreement, of any vendor that violates the rules and regulations.

(Ord. No. 4.119, § 1, 9-28-2009; Ord. No. 4.188, § 1, 4-25-2011)

Title VI UTILITIES AND TAXES⁴³

⁴³Cross reference(s)—Any ordinance levying taxes not in conflict or inconsistent with the provisions of this Code saved from repeal, § 1.100.150Cross reference(s)—(4); administration, § 1.105.010Cross reference(s)— et seq.; director of public works, § 1.105.530Cross reference(s)— et seq.; public health, safety and welfare, title II; business and occupations, title V; land and development ordinance, title VIII.

CHAPTER 105. TAXATION⁴⁴

⁴⁴State law reference(s)—Taxation in third class cities, RSMo 94.010 et seq.; financial administration in third class cities, RSMo 95.280.

- CODE OF ORDINANCES
Title VI - UTILITIES AND TAXES
CHAPTER 105. - TAXATION
ARTICLE 1. IN GENERAL

ARTICLE 1. IN GENERAL

Sec. 6.105.010. Investment of city funds.

The city treasurer, with the written approval of the city manager, is hereby authorized to invest any funds which will not be needed by the city during the period of deposit or nonavailability in U.S. Treasury bills or U.S. Treasury notes.

(Code 1974, § 12-1)

Sec. 6.105.020. City sales tax—Generally.

A city sales tax at the rate of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the city is hereby imposed on all sellers within the city, 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 144.010—144.525, and the rules and regulations of the director of revenue of the state, issued pursuant thereto.

(Code 1974, § 12-2)

State law reference(s)—City sales tax, RSMo 94.500—94.550.

Sec. 6.105.030. Same—Capital improvements.

- (a) A city sales tax at the rate of one-half of one percent for the purpose of funding capital improvements upon all sellers, for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail within the city, all to the extent and in the manner provided in RSMo 144.010—144.510, as imposed by Ordinance No. 2.723, is hereby effective.
- (b) As provided by state law and city Ordinance No. 2.723, all revenue received from such tax under the provisions of this section shall be deposited in a special trust fund and shall be used solely for capital improvements for so long as the tax shall remain in effect.
- (c) Pursuant to state law, the capital improvements sales tax authorized by Ordinance No. 2.723 shall become effective on the first day of the first calendar quarter after the state director of revenue receives notification of the adoption of such tax.

(Ord. No. 2.737, §§ 3—5, 11-9-1987)

Sec. 6.105.040. Same—Transportation.

- (a) A city sales tax at the rate of one-half of one percent for transportation purposes as enumerated in RSMo 94.700—94.755 is hereby imposed upon the receipts from the sale at retail of all tangible personal property or taxable services at retail within the city, to the extent and in the manner provided in RSMo 144.010—144.525, all as set forth in Ordinance No. 3.476, which is hereby declared effective.

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- (b) There is hereby created a special fund to be known as the "city transportation trust fund" and all revenue received from such tax under the provisions of this section shall be deposited by the city treasurer in such and shall be appropriated and disbursed only for transportation purposes as enumerated in RSMo 94.700—94.755.
 - (c) This section shall be effective on the first day of the second calendar quarter after the state director of revenue receives notification of the adoption of such tax.
- (Ord. No. 3.482, §§ 2, 3, 5, 11-13-1995)

Sec. 6.105.041. Same—Community center and city parks.

- (a) A city sales tax at the rate of one-fourth of one percent for the purpose of providing funding for a community center and city parks, commencing on July 1, 2006, upon the termination of the existing one-fourth of one percent city sales tax, as authorized under RSMo 644.032 and 644.033, is hereby imposed upon the receipts from the sale at retail of all tangible personal property or taxable services at retail within the city, to the extent and in the manner provided in RSMo 144.010—144.525, all as set forth in Ordinance No. 3.935, which is hereby declared effective.
 - (b) There is hereby created a special trust fund to be known as the "community center and city parks fund" and all revenue received from such tax under the provisions of this section shall be deposited by the city treasurer in such fund and shall be appropriated and disbursed only for a community center and city parks.
 - (c) This section shall be effective on the first day of the second calendar quarter after the state director of revenue receives notification of the adoption of such tax.
- (Ord. No. 3.944, §§ 2, 3, 5, 2-14-2005)

Sec. 6.105.045. Use tax.

- (a) A use tax at the rate of 2½ percent for general revenue, capital improvements, transportation, and fire protection purposes is hereby imposed, as authorized by RSMo 144.757, for the privilege of storing, using or consuming within the city any article of tangible personal property purchased from out-of-state sellers by in-state buyers and on certain taxable business transactions made on or after April 1, 2003, all as set forth in Ordinance No. 3.847, which is hereby declared effective. If any city sales tax is reduced or raised by voter approval, the city use tax rate shall also be deemed to be reduced or raised by the same action reducing or raising the city sales tax. This tax shall not apply with respect to the storage, use or consumption of any article of tangible personal property purchased, produced or manufactured outside this state until transportation of the article has finally come to rest within the city or until the article has become commingled with the general mass of property within this city.
 - (b) This section shall be effective as of April 1, 2003, provided the state director of revenue receives notice of adoption of the city use tax on or before February 14, 2003.
- (Ord. No. 3.855, §§ 2, 3, 2-10-2003)

Sec. 6.105.050. Land and lot delinquent list.

- (a) The city collector is hereby required to prepare a list of delinquent taxes and special sewer assessments remaining due and uncollected for each year, to be known as "the land and lot delinquent list."
- (b) The land and lot delinquent list shall contain the following items:

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- (1) A listing in numerical order of all tracts of land or city lots on which back taxes and special sewer assessments are due, with a legal description thereof;
 - (2) Opposite each tract of land or city lot listed, the name of the owner, if known, and, if unknown, the name of the person to whom the lot was assessed.
 - (3) In appropriate columns, the year or years for which the land is delinquent, the amount of original tax and assessment due each fund, the interest due on the tax or assessment at the time of making the back tax books, the clerk's fees then due, and the aggregate amount of taxes, assessments, interest and clerk's fees charged against the land for all years delinquent.

(c) This list shall be returned to the council by the city collector for the council's approval.

(Code 1974, § 12-3)

Sec. 6.105.055. Business license tax on gross receipts of utility corporations.

Pursuant to RSMo 393.275.2, and any and all other applicable authority, the City of Gladstone shall maintain the business license tax on gross receipts of utility corporations without reduction, notwithstanding any tariff increases of such corporations or any notice thereof including, but not limited to, notice sent as required by law.

(Ord. No. 4.235, 3-25-2013)

ARTICLE 2. RESIDENTIAL UTILITIES SALES TAX

Sec. 6.105.060. Reimposed.

The municipal sales tax on all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil used for domestic use heretofore imposed within the corporate limits of this municipality is hereby reimposed.

(Code 1974, § 12-4)

State law reference(s)—Authority, RSMo 144.032.

Sec. 6.105.070. Rate of taxation.

The rate of taxation shall be, as heretofore established and approved by a majority vote of the qualified electors of the city in a referendum on October 5, 1971, at one percent.

(Code 1974, § 12-5)

Sec. 6.105.080. Copies to be provided to all utilities and director of revenue.

The city clerk is hereby directed to provide copies of the ordinance from which this article is derived to all of the utilities which provide service within the corporate limits of the city, and to the director of revenue for the state.

(Code 1974, § 12-6)

ARTICLE 3. ELECTRICITY

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Sec. 6.105.090. Effect of license tax on other tax requirements.

The tax required to be paid by this article shall be paid in lieu of any other occupation license or merchandising tax, but shall not be in lieu of any ad valorem tax.

(Code 1974, § 17-19)

Sec. 6.105.100. "Person" defined.

The word "person," whenever used in this article, shall include any individual, partnership, firm, corporation, association, trustee, receiver, or any other group or combination of individuals acting as a unit, either severally or jointly.

(Code 1974, § 17-19.1)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 6.105.110. Application of revenue.

The tax collected in this article shall first be applied toward the payment of municipal street lighting and other municipal electrical bills.

(Code 1974, § 17-20)

Sec. 6.105.120. Penalties.

If the person shall fail to file a statement as required in this article, or if such person shall willfully fail or refuse to pay the occupation tax provided in this article, when due, such person shall, for such failure, for the first 30 days or any part thereof, pay in addition to such tax a penalty of ten percent of the tax due and unpaid, and, for each succeeding 30 days or any part thereof shall pay, as a penalty, three percent of such tax as long as the tax shall remain unpaid.

(Code 1974, § 17-21)

Sec. 6.105.130. Levy and amount of tax; gross receipts defined.

- (a) Every person now engaged or hereafter to become engaged in the business of supplying electricity for compensation to residential, commercial and industrial users thereof within the city shall pay to the city as a license fee a sum equal to seven percent of the gross receipts derived by such person from the sale of such electricity within the present or any future boundaries of the city for domestic, commercial and industrial consumption, as hereinafter defined, and not for resale.
- (b) The term "gross receipts," as applied to sales of electrical energy for domestic, commercial and industrial purposes, as used in this section, shall not include: electrical energy sold to the United States or the state, or to any agency or political subdivision thereof; and electrical energy sold for other use which cannot be classified as domestic, commercial or industrial, such as the electrical energy used by public utilities, telephone, telegraph and radio communication companies, railroads, pipeline companies, educational institutions not operating for profit, churches and charitable institutions, as such sales and usages have been construed by the United States Department of Internal Revenue under the Revenue Act of 1932, and amendments thereto.

(Code 1974, § 17-22)

Sec. 6.105.140. Statements of gross receipts.

It is hereby made the duty of such person to file with the city treasurer, on or before the last day of each month, a statement of gross receipts of such person from the sale of electrical energy for domestic, commercial and industrial purposes, as defined in subsection 6.105.130(b), showing the gross receipts for such domestic, commercial and industrial business for each succeeding month, based upon the business done during the preceding month, and at the time of filing of such statement, shall pay to the treasurer a sum equal to seven percent of the amount shown by such statement. Any duly designated representative of the city shall, at all reasonable times, have the right to investigate the correctness of such statements and shall, at all reasonable times, have access to the books and records of such person for such purposes.

(Code 1974, § 17-23)

ARTICLE 4. GAS

Sec. 6.105.150. Levy and amount of tax.

There is hereby levied and assessed as an occupation licensing tax on the gross receipts, subsequent to the effective date of the ordinance from which this article is derived, a sum equal to seven percent of the gross receipts of any person or company now or hereafter operating a gas distribution system in the corporate limits of the city.

(Code 1974, § 17-24)

Editor's note(s)—In accordance with RSMo 393.275, the city, via Ordinance Nos. 3.011, 3.140, 3.206 and 3.207, maintained at the current rate the tax levied by the preceding section.

Sec. 6.105.160. Report of gross receipts; when tax due and payable.

Any person or company operating a gas distribution system in the city shall, on the last day of each calendar month, make a report to the city council of its gross receipts from the sale of gas for domestic and commercial purposes within the corporate limits of the city for the preceding calendar month (ending at the last meter reading preceding the last day of such month); and at the time of making such reports, pay into the city treasury a sum equal to seven percent of the gross receipts, which shall be charged to the operating expense of the company. Domestic and commercial sales shall be considered the sales made other than on special contracts providing for standby fuel and interruption of service at any time demands of domestic and commercial consumers may so require. Such percentage of the grantee's gross receipts is hereby levied and assessed as an occupation and license tax for the privilege of engaging in the business recited in this article during the term hereof; and as a further consideration for this franchise, the grantee agrees to recognize the tax as a valid tax and makes that payment during such period.

(Code 1974, § 17-25)

ARTICLE 5. TELEPHONE COMPANIES

Sec. 6.105.170. Imposition and amount of tax.

Every telephone company the operation of which shall extend into the city shall pay the city as an annual license tax of seven percent of the gross receipts derived from the furnishing of service within the city as determined and set forth in this article.

(Code 1974, § 17-26)

Sec. 6.105.180. Statements of gross receipts; payment of tax generally.

- (a) All such companies shall file with the city clerk on or before the last day of September 1980, and on the last day of each month thereafter, a sworn statement of the gross receipts derived by such company from the furnishing of telephone service during the period of the preceding month. At the time of filing any such statement, the company shall pay to the city collector seven percent of such gross receipts. Gross receipts derived from the furnishing of such service to the city or any other municipal or governmental unit located in the city shall not be included in the foregoing statement nor shall any tax be due on such gross receipts. The telephone company shall have the privilege of crediting any sums that may be due under this article with any unpaid balance due the company for telephone service rendered or facilities furnished to the city.
- (b) The first payment of tax provided for in this article shall be due and payable on September 30, 1980, and shall be based on the period from August 1, 1980 to August 31, 1980. The next payment of tax shall be due on October 30 and shall be based on the business done during the preceding month.
- (c) Payments shall thereafter be made on the last day of each succeeding month based on the preceding month.

(Code 1974, § 17-27)

Sec. 6.105.190. Payments of tax in lieu of certain other charges.

The payments required by the provisions of this article shall be in lieu of all other excises, charges, exactions, rentals, impositions or other license or occupation taxes heretofore imposed upon any company engaged in the business described in section 6.105.170, but nothing contained in this article shall be construed to exempt such company from any general or special tax imposed upon the public generally by the city.

(Code 1974, § 17-28)

Sec. 6.105.200. Interference of wires.

All telephone companies, on the request of any person, shall remove, raise or lower its wires temporarily to permit the moving of houses or other bulky structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting such raising or lowering of wires and payment in advance may be required. Not less than 48 hours' advance notice shall be given to arrange for such temporary wire changes.

(Code 1974, § 17-29)

Sec. 6.105.210. Right to trim trees, etc.

The company may continue to exercise its right to trim trees, brush or hedges upon and overhanging the streets, alleys, sidewalks and public places of the city so as to prevent such foliage from coming in contact with

telephone wires and cables, all of such trimming to be done under the supervision and direction of the city manager or the city manager's designated representative.

(Code 1974, § 17-30)

ARTICLE 6. VIDEO SERVICES PROVIDERS

Sec. 6.106.010. Scope and intent.

The city council enacts the following provisions to regulate the provision of video services within the City of Gladstone to the extent authorized by the Missouri General Assembly. The city council intends these provisions to apply to all video services providers doing business within the city, either presently or in the future, regardless of the type of equipment or technology employed to provide such services, and irrespective of whether or not the provider is utilizing the public rights of way within the city for its equipment or facilities to connect its transmissions to the homes or other locations of individual customers. These services currently include wireline facilities, cable systems, Internet protocol technologies, and any successor technologies providing video transmissions to customers within the City of Gladstone, now or in the future.

The city council intends to encourage the development of video services within the city that will offer its residents a broad range of choices and access to the latest technology. By enacting these provisions the city council intends to create an environment that provides an equal opportunity under fair and evenly applied regulations, for all video services providers to successfully operate and compete for business within the city.

(Ord. No. 4.087, § 1, 10-27-08)

Sec. 6.106.020. Definitions.

As used in this section, the following terms shall mean:

- (1) "Cable operator", as defined in 47 U.S.C. Section 522(5);
- (2) "Cable system", as defined in 47 U.S.C. Section 522(7);
- (3) "Franchise", an initial authorization, or renewal of an authorization, issued by a franchising entity, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the provision of video service and any affiliated or subsidiary agreements related to such authorization;
- (4) "Franchise area", the total geographic area authorized to be served by an incumbent cable operator in a political subdivision as of the effective date of RSMo 67.2675 to 67.2714 or, in the case of an incumbent local exchange carrier, as such term is defined in 47 U.S.C. Section 251(h), or affiliate thereof, the area within such political subdivision in which such carrier provides telephone exchange service;
- (5) "Franchise entity", a political subdivision that was entitled to require franchises and impose fees on cable operators on the day before the date of enactment of RSMo 67.2675 to 67.2714, provided that only one political subdivision may be a franchise entity with regard to a geographic area;
- (6) (a) "Gross revenues", limited to amounts billed to video service subscribers or received from advertisers for the following:
 - a. Recurring charges for video service;

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- b. Event-based charges for video service, including but not limited to pay-per-view and video-on-demand charges;
 - c. Rental of set top boxes and other video service equipment;
 - d. Service charges related to the provision of video service, including but not limited to activation, installation, repair, and maintenance charges;
 - e. Administrative charges related to the provision of video service, including but not limited to service order and service termination charges; and
 - f. A pro rata portion of all revenue derived, less refunds, rebates, or discounts, by a video service provider for advertising over the video service network to subscribers within the franchise area where the numerator is the number of subscribers within the franchise area, and the denominator is the total number of subscribers reached by such advertising;
- (b) Gross revenues do not include:
- a. Discounts, refunds, and other price adjustments that reduce the amount of compensation received by an entity holding a video service authorization;
 - b. Uncollectibles;
 - c. Late payment fees;
 - d. Amounts billed to video service subscribers to recover taxes, fees, or surcharges imposed on video service subscribers or video service providers in connection with the provision of video services, including the video service provider fee authorized by this section;
 - e. Fees or other contributions for PEG or I-Net support; or
 - f. Charges for services other than video service that are aggregated or bundled with amounts billed to video service subscribers, if the entity holding a video service authorization reasonably can identify such charges on books and records kept in the regular course of business or by other reasonable means;
- (c) Except with respect to the exclusion of the video service provider fee, gross revenues shall be computed in accordance with generally accepted accounting principles;
- (7) "Household", an apartment, a house, a mobile home, or any other structure or part of a structure intended for residential occupancy as separate living quarters;
- (8) "Incumbent cable operator", the cable service provider serving cable subscribers in a particular franchise area on September 1, 2007;
- (9) "Low income household", a household with an average annual household income of less than \$35,000.00 as determined by the most recent decennial census;
- (10) "Person", an individual, partnership, association, organization, corporation, trust, or government entity;
- (11) "Political subdivision", a city, town, village, county;
- (12) "Public right-of-way", the area of real property in which a political subdivision has a dedicated or acquired right-of-way interest in the real property, including the area on, below, or above the present and future streets, alleys, avenues, roads, highways, parkways, or boulevards dedicated or acquired as right-of-way and utility easements dedicated for compatible uses. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other non-wire telecommunications or broadcast service;

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- (13) "Video programming", programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in 47 U.S.C. Section 522(20);
 - (14) "Video service", the provision of video programming provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology whether provided as part of a tier, on demand, or a per channel basis. This definition includes cable service as defined by 47 U.S.C. Section 522(6), but does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. Section 332(d), or any video programming provided solely as part of and via a service that enables users to access content, information, electronic mail, or other services offered over the public Internet;
 - (15) "Video service authorization", the right of a video service provider or an incumbent cable operator, that secures permission from the public service commission pursuant to RSMo 67.2675 to 67.2714, to offer video service to subscribers in a political subdivision;
 - (16) "Video service network", wireline facilities, or any component thereof, located at least in part in the public right-of-way that deliver video service, without regard to delivery technology, including Internet protocol technology or any successor technology. The term "video service network" shall include cable systems;
 - (17) "Video service provider", any person that distributes video service through a video service network pursuant to a video service authorization;
 - (18) "Video service provider fee", the fee imposed on providers based on gross revenues, in accordance with the provisions of this article.

(Ord. No. 4.087, § 1, 10-27-08)

Sec. 6.106.030. Authority to provide services within city.

- (a) No video services provider shall commence construction of facilities within the city without first obtaining all construction permits required under this Code.
- (b) All video services providers shall provide to the city a certified copy of their certificate or other proof of authority to operate issued by the state public service commission prior to commencing any services for which customers will be charged a fee.

(Ord. No. 4.087, § 1, 10-27-08)

Sec. 6.106.040. Video services provider fee.

- (a) The former gross receipts fee of 5% imposed under the city's cable television franchise is hereby extended to all providers of video services within the city.
- (b) The city video services provider fee, as provided for in subsection (a) above shall be paid by all video services providers operating within the city at least quarterly. Payments shall be made to the city within 30 days after the end of each quarter.
- (c) Each video services provider shall submit a report of gross revenues generated by its operations within the city for the preceding business quarter, within 30 days after the end of the quarter. Reports shall be submitted on forms or in the format approved by the city.

(Ord. No. 4.087, § 1, 10-27-08)

Sec. 6.106.050. Authority to conduct audits.

The city shall have the right to perform an audit of the books and accounts of each video services provider operating within the city on an annual basis. Audits will be conducted in accordance with the provisions of the Missouri 2007 Video Services Provider Act.

(Ord. No. 4.087, § 1, 10-27-08)

Sec. 6.106.060. Customer service requirements.

Each video services provider shall, within 90 days after commencement of business operations within the city, submit to the city its written customer services policy applicable to all customers within the city, and complying in all respects with the provisions of RSMo 67.2692.

(Ord. No. 4.087, § 1, 10-27-08)

Sec. 6.106.070. PEG channel requirements.

Each video services provider shall provide such public, education and government broadcasting capacity as the city shall direct, subject to the provisions of RSMo 67.2703.

(Ord. No. 4.087, § 1, 10-27-08)

Sec. 6.106.080. Discrimination in service provision prohibited.

No video services provider operating within the City of Gladstone shall deny access to its services to any group or potential residential subscribers because of the race or income of the residents in the local area in which the group resides.

(Ord. No. 4.087, § 1, 10-27-08)

Sec. 6.106.090. Use of rights of way; compliance with other code provisions.

All video services providers shall make use of the public rights of way only in accordance with the provisions of this Code. All video services providers shall comply with the provisions of the city's Code of Ordinances in the design and construction of facilities, property maintenance activities, and business practices.

(Ord. No. 4.087, § 1, 10-27-08)

Sec. 6.106.100. Survival of existing video services franchise agreements.

None of the provisions of this article shall be construed to cause a termination of any existing video services franchise agreement that was executed and effective prior to the effective date of the ordinance from which this article derives.

(Ord. No. 4.087, § 1, 10-27-08)

CHAPTER 110. UTILITIES⁴⁵

- CODE OF ORDINANCES
Title VI - UTILITIES AND TAXES
CHAPTER 110. UTILITIES

⁴⁵Cross reference(s)—Solid waste and litter, § 2.115.010Cross reference(s)— et seq.; flood control regulations, § 8.110.010Cross reference(s)— et seq.; subdivision regulations, § 8.115.010Cross reference(s)— et seq.; building and construction ordinance, title IX; electrical regulations, § 9.400.010 et seq.

State law reference(s)—Authority of city to construct and maintain sewerage system, RSMo 88.832—88.854, 250.010; construction, etc., of waterworks, RSMo 88.633; combined waterworks and sewerage system, RSMo 250.010—250.210, 250.240, 250.250.

ARTICLE 1. IN GENERAL

Sec. 6.110.010. Waterworks and sewerage system combined.

- (a) It is hereby found, determined and declared to be necessary for the public health, safety, welfare and benefit of the city and its inhabitants that the waterworks to be acquired or constructed and the existing sewerage system of the city, and all future improvements and extensions thereto, be combined and that they shall thenceforth be operated and maintained as a combined waterworks and sewerage system.
- (b) The waterworks to be acquired or constructed and the existing sewerage system of the city, and all future improvements and extensions thereto, whether to the waterworks or to the sewerage system or to both, shall be combined, and it is hereby declared that such waterworks and such sewerage system, and all future improvements and extensions thereto as aforesaid, thenceforth be operated and maintained as a combined waterworks and sewerage system.

(Code 1974, § 29-1)

State law reference(s)—Authority of city to combine waterworks and sewerage system, RSMo 250.020.

Sec. 6.110.020. City manager authorized to make certain rules.

The city manager is hereby authorized to make reasonable rules for the operation and conduct of the combined waterworks and sewerage system of the city, and to direct such operation.

(Code 1974, § 29-2)

Sec. 6.110.030. Adoption of 1974 and 1984 standard specifications and design criteria for sanitary sewer and water lines.

The water and sewer specifications and standards as set forth in division II, section 2500, and division II, section 2900, with the exception of sections 2901.2D and 2901.2E, and set forth as Exhibit A, and further identified as sanitary sewer and water lines specifications and standards prepared by Kansas City Metropolitan Chapter of the American Public Works Association, dated 1974 and 1984 respectively, are hereby adopted as the official sanitary sewer and water lines specifications for the city.

(Code 1974, § 29-2.1)

Editor's note(s)—Exhibit A is not set out herein, but is on file in the city engineer's office.

ARTICLE 2. WATER⁴⁶

⁴⁶State law reference(s)—Authority of cities to regulate, etc., water supplies, RSMo 71.700, 71.710.

Division I. Generally

Sec. 6.110.040. Main extensions; application; form, contents and required provisions; conditions prerequisite to use of extensions.

- (a) Any applicant for a main extension shall make written application to the community development department. Such application shall be accompanied by a site plan indicating the area to be served, location of all existing utilities, right-of-way and easements, proposed location and alignment of new mains, point of connection to existing system, and any new easements required for construction of new mains. The applicant shall also submit for approval a set of construction plans containing the designer's seal, the alignment, a profile, elevations, city standard details and notes. The applicant shall submit the following:
- (1) The applicant shall furnish the city with a performance bond in the amount of the contract as required by section 8.105.030 and a maintenance bond covering the year immediately after completion of construction, commencing on the day the city accepts the mains for substantial completion;
 - (2) The applicant shall provide proof of public liability and property damage insurance in the minimum amounts listed:

	Bodily Injury	Property Damage
Each Person	\$250,000.00	
Each Accident	\$500,000.00	\$250,000.00

- (3) The completion date of the contract;
 - (4) The applicant's agreement to construct the mains in accordance with the plans, specifications as submitted and the technical specifications and design criteria manual of the city;
 - (5) The prohibition of the construction of mains on private property unless adequate easements are provided to the city from each property owner;
 - (6) Submission of lien waivers to the city by applicant;
 - (7) The agreement of applicant to deed the mains to the city by means of a bill of sale; and
 - (8) Any upsizing required by the city to be in accordance with section 6.110.050.
- (b) No mains shall be put into service or any service connections be made to mains built under this section until the improvements are found to be acceptable by the city, a bill of sale has been executed by the applicant, lien waivers, an approved set of reproducible "as built" drawings and a digital file of the as-builts in the .dwg or .dxf file format are furnished to the city.

(Ord. No. 3.621, § 1(33.600.010), 7-28-1997)

Sec. 6.110.050. Water main extensions; specifications.

All water main extensions shall be no smaller than eight-inch pipe in size, shall be installed and made available to adjacent properties served by the main and shall have hydrants located on all intersections and spaced

no further than 500 feet apart; provided, however, that the planning official may require the use of a main larger than eight inches, in which case the city shall pay the difference between the cost of eight-inch main materials and the cost of the larger main materials. If the main extends into a cul-de-sac, the size may be reduced to four-inch pipe, provided that all other conditions are met.

(Ord. No. 3.621, § 1(33.600.020), 7-28-1997)

Sec. 6.110.060. Cost of installation or reimbursement of applicant; amount, refunds.

No property or lot in the vicinity of any water main built pursuant to this article, which is not owned by an "applicant" (any person causing a water main to be installed for the benefit of lots or property owned by such person) either when the main is constructed or when a water connection is sought for such property or lot, shall be directly supplied with water from the main until the sum of one-half over the average cost per foot multiplied by the frontage length of the property to be served is paid to the city. This shall be in addition to other connection charges imposed by the city. Such amount shall be paid before any water is supplied from the main constructed. If, at any time before payment by the property owner of such charge, it shall reasonably appear to the planning official that a lesser amount may be required (based on the probability that there will be sufficient use of the main by nonowners to adequately reimburse the applicant or person installing the main), then the amount may be reduced by the planning official subject to approval by the city manager. If an existing main is replaced by another larger main by either the city or any other party, those persons who receive water service through the existing main shall not be liable for any charge as a result of subsequently connecting to the larger main. In no event is the applicant or person installing the main to receive more than the actual cost of installing that portion of the line adjacent to nonowned property; and, further, as to any portion of the line which also adjoins or adjoined (when built) applicant's land, applicant shall receive no more than 50 percent of the cost of such adjoining portion of the line. Applicant shall be entitled to amounts equal to monies collected (payable to such person as collected) until the agreed-on reimbursement figure, calculated by the planning official in accordance with this section, or cost of installation (whichever is less) is paid in full. There shall be no independent liability on the part of the city beyond that amount actually and legally collected pursuant to this article from persons who connect to the main in question. Collections by the city shall be continued even after the applicant has been reimbursed for the applicant's actual cost and such monies shall be paid into the general water fund. The provisions of this section, as far as refunds are concerned, do not apply in any instance other than the connection of a single service directly to the existing main (it being intended that all transmission lines or mains be attached without any refund earned or accrued). No refunds can be earned or accrued for more than five years after the date of the original contract.

(Ord. No. 3.621, § 1(33.600.030), 7-28-1997)

Sec. 6.110.070. Water department—Under direction of director of utilities; appointment.

The water department shall be under the direction of the director of utilities who shall be appointed by the city manager.

(Code 1974, § 29-3)

Sec. 6.110.080. Same—Rules and regulations generally; amendment.

The water department shall be operated in accordance with the official rules and regulations which are on file in the office of the city clerk. These rules and regulations may be changed from time to time by resolution of the council.

(Code 1974, § 29-4)

Sec. 6.110.090. Metering required.

All water shall be metered.

(Code 1974, § 29-5)

Sec. 6.110.100. Water service billing frequency.

(a) The following rates shall be charged for all metered water service:

- (1) Minimum service charge of \$9.27 monthly.
- (2) Plus \$4.75 per 1,000 gallons used.

(Code 1974, § 29-6; Ord. No. 3.740, § 1, 1-24-2000; Ord. No. 4.214, § 2, 6-25-2012; Ord. No. 4.215, § 2, 7-9-2012; Ord. No. 4.280, 6-23-2014; Ord. No. 4.312, § 2, 6-8-2015; Ord. No. 4.356, § 1, 6-13-2016; Ord. No. 4.388, § 1, 6-12-2017; Ord. No. 4.433, § 1, 6-14-2018; Ord. No. 4.485, § 1, 8-12-2019)

Sec. 6.110.110. Drinking water fee.

- (a) The state "primacy fee" will be collected annually. This fee will be stated separately on the customer's water bill as a "state fee."
- (b) The charge assessed against each customer of the city utility as established by the state is determined on the basis of meter size as stated in this subsection. The city shall use its records to determine the initial fee, which unless challenged within 30 days after the date of the fee becomes delinquent shall be conclusively presumed to be accurate:

For customers with a meter of one inch or smaller: \$1.50/year.

Meter size more than one and less than two inches: \$5.00/year.

Meter size more than two and less than four inches: \$25.00/year.

Meter size more than four inches: \$50.00/year.

(Ord. No. 3.213, §§ 1, 2, 7-26-1993)

Sec. 6.110.120. Senior citizen discount water rate.

Any residential water customer who meets the following eligibility requirements and files an application with the city clerk shall receive a \$2.00 per month discount for water services. To be eligible for such discount, the customer must be:

- (1) A city resident.
- (2) Age 65 years or older.
- (3) The head of a household.

(Code 1974, § 29-6.1)

Sec. 6.110.130. Frequency of billing.

All residential, commercial, and industrial services shall be billed monthly and other charges such as refuse collection and sewer service may be added to the utilities bill or statement.

(Code 1974, § 29-7; Ord. No. 4.485 , § 2, 8-12-2019)

Sec. 6.110.140. Violations.

The director of utilities shall sign a complaint against any violator in any case wherein the director of utilities feels a substantial violation of this chapter or of the combined water and sewer utility rules and regulations has occurred. Any punishment imposed for violation thereof shall be in addition to the right of the city to discontinue water service for those reasons specified.

(Code 1974, § 29-11A)

Editor's note(s)—A copy of the city's combined water and sewer utility rules and regulations is on file in the office of the city clerk.

Division II. Conservation Regulations

Sec. 6.110.150. Sprinkling declared nonessential.

The use of water from the city water system for purposes of sprinkling or watering lawns is nonessential to the health, safety and welfare of the residents of the city. For the purpose of this section, the term "lawn" shall be that portion of any land under cultivation with grass, trees, shrubs, bushes, or other types of vegetation.

(Code 1974, § 29-80)

Sec. 6.110.160. Sprinkling.

- (a) *Lawn, shrubs and garden sprinkling.* The watering of lawns or shrubs and gardens by hose, sprinkling system, or any other manner, with water supplied from the city water system, shall be restricted in the following manner from June 1 through September 15 each year unless extended by the city manager:
 - (1) All properties in the city which have a street address which ends in an odd number shall water the lawns, shrubs and gardens located on such property only on odd-numbered calendar days, and such watering may occur at any time during the 24-hour period of such day.
 - (2) All properties in the city which have a street address which ends in an even number shall water the lawns, shrubs and gardens located on such property only on even-numbered calendar days, and such watering may occur at any time during the 24-hour period of such day.
- (b) *No watering; when.* No watering of lawns, shrubs and gardens with water obtained from the city water system shall be permitted anywhere in the city on nonpermitted days.
- (c) *New lawn or sod; special sprinkling permit required.* Upon application to the community services department, the owner or occupant of a property lying within the city on which there has been seeded or planted new lawn or sod may obtain a special permit to sprinkle the new lawn or sod on days other than that specified in the subsection (a) of this section provided that the application for the special permit is submitted prior to the seeding or laying of sod. The community services department, upon determining that the permit

shall be used for a newly planted or seeded lawn, shall issue a written permit which shall authorize watering for a continuous 14-day period, which permit the owner or occupant shall post in a visible location on the lot being so sprinkled or watered.

- (d) *Plant businesses.* The restrictions of this section shall not apply to any person, firm or corporation engaged in the business of growing or selling plants of any kind for profit.

(Code 1974, § 29-81)

Sec. 6.110.170. Other uses declared nonessential.

Certain other uses of water from the city water system are nonessential to the health, safety and welfare of the residents of the city, and include, but are not limited to, the filling of swimming pools and the noncommercial washing of cars. The city manager is empowered to determine if other uses not specified in this section are nonessential.

(Code 1974, § 29-82)

Sec. 6.110.180. Authority to restrict nonessential uses.

The city manager is authorized and empowered to restrict nonessential use of water from the city water system for such period of time and in such manner as the city manager may deem necessary in order to conserve the supply of water in the city. The city manager will announce the restrictions, and the restrictions are effective upon the announcement. Upon announcing the restrictions, the city manager shall report the nature of those restrictions and the reasons for them to the city council.

(Code 1974, § 29-83)

Sec. 6.110.190. Penalty.

Any person, firm or corporation violating any of the provisions this division shall be subject to a fine of not more than \$500.00 or by the imprisonment of not more than three months, or by both such fine and imprisonment. Each day that a violation of this division exists or continues, or each time a violation continues after delivery of an order to terminate such violation, to the owner or occupant of such property, shall be a separate offense hereunder. In addition to the foregoing, the city may terminate the water supply to any property on which a violation hereof continues after the delivery of an order to terminate such violation is made to the occupant or owner of such property.

(Code 1974, § 29-84)

ARTICLE 3. SEWERS

Division I. Generally

Sec. 6.110.200. 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:

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions in five days at 20 degrees Celsius, expressed in parts per million by weight.

Cesspool means a pit for the reception or detention of sewage.

Commercial and industrial wastes means the water-carried wastes from commercial and industrial establishments, as distinct from sanitary sewage.

Drain means a pipe or conduit used for conveying groundwater, surface water or stormwater.

Foundation drain means a conduit around the foundation or footing of any residence or building for the purpose of collecting or conveying water.

Garbage means solid food wastes from the preparation, cooking and disposing of food, and from the handling, storage and sale of produce.

Industrial wastes means the liquid wastes resulting from the processes employed in industrial establishments.

Inspector means any person appointed by the city manager or such person's authorized deputy, agent or representative, to administer the provisions of this article.

Normal sewage means sewage which contains not over 360 parts per million suspended solids and not over 300 parts per million of BOD by weight, and which does not contain any of the materials or substances listed in section 6.110.300 in excess of allowable amounts specified in such section.

pH means the logarithm to the base ten of the reciprocal of the number of gram ionic hydrogen equivalents per liter of solution.

Potable water means water which is safe for drinking or other sanitary purposes and is also suitable for domestic use.

Private sewage disposal system means any privately owned or operated privy, privy vault, septic tank, cesspool or any other facility or system for the disposal of sewage which is not a part of the city public sewer system.

Properly shredded garbage means garbage that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewers, with no particle greater than one-half inch in any dimension.

Property means residential dwelling, commercial or industrial establishments.

Public sewer means all or any portion of the city sanitary sewer system.

Residential dwelling means any single-family dwelling house, any multifamily dwelling, any apartment building, or any other building or structure used in whole or in part as a dwelling residence.

Roof drain means a conduit for conveying the stormwater or rainwater from a roof.

Sanitary sewage means those wastes which are comparable to wastes which originate in residential units and contain only human excrement and wastes from kitchen, laundry, bathing and other household facilities.

Sanitary sewer means a sewer intended to receive sanitary sewage with or without industrial wastes and without the admixture for surface water or stormwater.

Septic tank means a tank through which sewage flows and which permits solids in the sewage to settle in order that portions of such solids may be disintegrated by biological action.

Service lateral means the conduit or pipe from the sewer line to the building served.

Sewage means the liquid wastes conducted away from residences, business buildings or institutions, together with those from industrial establishments and with such ground, surface and stormwater as may be present.

Sewer means a conduit for carrying off sewage.

Sewerage system means the network of sewers, together with sewage lift stations and treatments plants, and all appurtenances necessary for the collection and treatment of sewage.

Standard laboratory methods means methods of analyses and testing as outlined in the latest edition of Standard Methods for the Examination of Water and Sewage, published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation.

Stormwater means that portion of the rainfall or other precipitation which runs off over the surface during a storm and for such a short period following a storm as the flow exceeds the normal or ordinary runoff.

Surface water means that portion of a rainfall or other precipitation which runs off over the surface of the ground.

Suspended solids means solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by standard laboratory methods.

(Code 1974, § 29-12)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 6.110.210. Contract authorized for disposal.

The city manager is hereby authorized to enter into a contract with the City of Kansas City, Missouri, whereby Kansas City will receive and dispose of sewage from the city. A copy of such contract is on file in the office of the city clerk and becomes a part of this section.

(Code 1974, § 29-13)

State law reference(s)—Authority for such contracts, RSMo 250.220.

Sec. 6.110.220. Sewer department created.

There is hereby created a municipal sewer department to be known as the city sewer department.

(Code 1974, § 29-14)

State law reference(s)—Establishment, powers and duties, etc., of board of public works, RSMo 91.450—91.540; authority of board to manage municipal utilities, 91.480.

Sec. 6.110.230. Connection to public sewer required; properties.

All residential dwellings, commercial and industrial establishments situated within the city shall be connected to the public sewer in conformity and compliance with all applicable ordinances and laws of the city.

(Ord. No. 3.621, § 1(33.700.010), 7-28-1997)

Sec. 6.110.240. Immediate connection to public sewer required.

- (a) Upon a determination by the planning official, or by the health department of the county, made in accordance with applicable provisions of this Code or regulations of the county, that the existing method of disposal of sewage from any property is not properly disposing of sewage and constitutes a nuisance, the city manager shall notify the owner and occupant of such property in writing that the then existing private sewage disposal system constitutes a nuisance or danger, and require such owner immediately to connect to the city public sewer, within 20 days after the date such notice is mailed or delivered to the owner and occupant. Such notice may be sent by certified mail, addressed to the owner and occupant at the address of such property.
- (b) If the owner or occupant of any such property does not connect to the city public sewer on or before the date required, or on or before the date specified in the notice provided, and if immediate connection is required to eliminate the nuisance, the city manager shall cause such property to be connected to the city public sewer, at the cost and expense of the owner, as provided in this article.
- (c) Any costs and expenses incurred by the city for connecting such property to the city public sewer shall be charged and billed to the owner of such property. If payment is not received within ten days after such billing to either the owner or occupant, the city council may assess all such costs and expenses incurred by the city as a special tax bill against the property involved, which shall be a lien on such property.
- (d) Any tax bill assessed and levied under the provisions of this section shall be collected by the city collector, together with the other taxes assessed against the property involved. Such tax bill, from the date of its issuance, shall to the extent allowed by state or federal law be a first lien on the property until paid, and it shall be prima facie evidence of the recitals therein and of its validity. No clerical error or informality in such tax bill, or in the proceedings leading up to its issuance, shall invalidate or be a defense thereto.

(Ord. No. 3.621, § 1(33.700.070), 7-28-1997)

Sec. 6.110.250. Individual sewage disposal systems prohibited.

For existing developed property, it shall be unlawful to construct, maintain or use any individual sewage disposal system for the disposal of sewage from any property if a public sewer that the public official determines that the property could be connected is within 100 feet of the property's property line. Any redevelopment or substantial improvement to any property shall require connection to the public sewage system.

(Ord. No. 3.621, § 1(33.700.020), 7-28-1997)

Sec. 6.110.260. Wastes discharges into public sewer prohibited; exception.

No person shall discharge wastes, except normal sewage, as defined in section 6.110.200, from any residential, commercial or industrial establishment into the public sewer.

(Ord. No. 3.621, § 1(33.700.030), 7-28-1997)

Sec. 6.110.270. Placing of sewage and water lines in same ditch prohibited; regulations governing parallel placement of such lines; protection of potable water supplies.

- (a) It shall be unlawful to place any pipe which carries or is intended to carry sewage in the same trench or ditch with a pipe which carries, or is intended to carry, a potable water supply. In every case where a water and

sewer line are parallel, the water line shall be at least ten feet horizontally from and at a higher elevation than the sewer line.

- (b) Where it is not possible to meet the conditions of subsection (a) of this section or where for any reason unusual circumstances present a potential or actual hazard to a potable water supply, the community development department must be notified in writing and plans submitted showing the precautions which are to be taken to minimize hazards to the potable water supply. In no case shall the work proceed until the plans for protecting the water supply have been approved in writing by the community development department.

(Ord. No. 3.621, § 1(33.700.040), 7-28-1997)

Sec. 6.110.280. Stormwaters, surface waters, etc., to be discharged into storm sewers or natural outlets.

Stormwaters, surface waters, groundwaters, roof runoff, subsurface drainage, cooling waters or other uncontaminated waters shall not be discharged into the public sewer, but shall be discharged into such sewers as are specifically designated as storm sewers or to a natural outlet.

(Code 1974, § 29-19)

Sec. 6.110.290. Installation of interceptors; type, construction, location, etc.; disposal of intercepted material.

Suitable interceptors shall be installed and operated at the expense of the owner of such property, when, in the opinion of the inspector, such are necessary for the removal of excessive amounts of grease, oils and grit, or other solids, from a waste before such waste is discharged into the public sewer. All interceptors shall be of a type, construction and capacity approved by the inspector and shall be located so as to be readily and easily accessible for cleaning and inspection. Intercepted material shall be disposed of in an approved manner, so as not to enter the public sewer.

(Code 1974, § 29-20)

Sec. 6.110.300. Certain prohibited materials specified.

The following materials, substances and wastes shall not be discharged into the sewers:

- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit. Where the volume of discharge represents a significant portion of the flow through a particular sewer, a lower maximum temperature may be prescribed by the inspector to prevent odor nuisance.
- (2) Wastes having a pH less than 6.0 or greater than 10.0 or otherwise having chemical properties which are hazardous or are capable of causing damage to the public sewer, personnel, or any system or facility into or through which such waste may be discharged.
- (3) Garbage that has not been properly shredded.
- (4) Insoluble oils, fats and greases. So called soluble oils may be admitted to the extent of 100 ppm; provided subsequent dilution in the sewers or treatment plant does not result in separation.
- (5) Any solid, liquid or gas which by reason of its nature and/or quantity could cause fire or explosion.

-
- (6) Any solid or viscous material which could cause an obstruction to flow in the sewers or in any way interfere with the treatment process. Examples of such materials include, but are not limited to, ashes, wax, paraffin, cinders, sand, mud, straw, shavings, metal, glass, rags, lint, feathers, tars, plastics, wood and sawdust, paunch manure, hair and fleshings, entrails, lime slurries, beer and distillery slops, grain processing wastes, grinding compounds, acetylene generation sludge, chemical residues, acid residues, and food processing bulk solids.
 - (7) Wastes containing phenolic compounds over ten ppm expressed as phenol.
 - (8) Wastes containing cyanides or compounds capable of liberating hydrocyanic acid gas over two ppm expressed as hydrogen cyanide.
 - (9) Wastes containing sulfides over ten ppm expressed as hydrogen sulfide.
 - (10) Wastes containing solutions of metals of such a concentration as to have an adverse effect upon public sewer, any sewage works, treatment process or receiving stream.
 - (11) Chlorinated solvents.
 - (12) Septic tank sludge.
 - (13) Any corrosive, noxious or malodorous material or substance which, either singly or by reaction with other wastes, is capable of causing damage to the public sewer, any sewage works, or creating a public nuisance or hazard, or preventing entry into the sewers for maintenance and repair.
 - (14) Concentrated dye wastes or other wastes which are either highly colored or could become highly colored by reacting with other wastes.
 - (15) Any material or substance not specifically mentioned in this section which is in itself corrosive, irritating to human beings and animals, toxic or noxious, or which by interaction with other wastes could produce undesirable effects, including deleterious action on the public sewer, or any sewage works, adversely affect any treatment process, constitute a hazard to humans or animals, or have an adverse effect upon the receiving stream.

(Code 1974, § 29-21)

Sec. 6.110.310. Inspector to determine whether or not certain unusual wastes to be prohibited.

Wastes which are unusual in composition, i.e., contain an extremely large amount of suspended solids or BOD, are high in dissolved solids such as sodium chloride, calcium chloride or sodium sulfate, contain substances conducive to creating tastes or odors in drinking water supplies or otherwise making such waters unpalatable even after conventional water purification treatment, or are in any other way unusual, shall be reviewed by the inspector who will determine whether such wastes shall be prohibited from or may be admitted to the public sewer or shall be modified or treated before being admitted.

(Code 1974, § 29-22)

Sec. 6.110.320. Surcharge when permissible concentration of suspended solids or BOD is exceeded.

- (a) *Imposition.* When the suspended solids content or the BOD of a waste exceeds the maximum concentration of these components in normal sewage, a surcharge, in addition to the normal sewer service charge, shall be

levied and established by the formula hereinafter set forth, but in no event shall such surcharge be less than \$3.00 per billing period.

(b) *Computation of amount.*

- (1) The surcharge shall be computed by using the formula:

$$S = V_s \times 0.00838 \times [\$0.079 (\text{BOD}-300) + \$0.045 (\text{SS}-360)] + \text{ESC}$$

which shall signify the amount of surcharge based on a combination of the strengths of BOD (biochemical oxygen demand) and SS (suspended solids) above those of normal sewage as defined in this article, plus an ESC (extra strength control) charge.

- (2) The BOD component of the formula shall equal the factor of 0.00838 for converting milligrams per liter to pounds per 1,000 gallons, multiplied by the volume of sewage in 1,000 gallons multiplied by \$0.079, the estimated cost for treatment of one pound of BOD in the raw sewage, multiplied by the concentration of BOD in milligrams per liter minus 300, the strength for the normal sewage.
- (3) The suspended solids component of the formula shall equal the factor of 0.00838 as defined in the BOD component, multiplied by the volume of sewage in 1,000 gallons, multiplied by \$0.045, the estimated cost of treatment of one pound of suspended solids in the raw sewage, multiplied by the concentration of suspended solids in milligrams per liter minus 360, the strength for normal sewage.
- (4) The extra strength control charge shall be the actual cost to the city for each individual user, related to obtaining, measuring and analyzing sewage samples to determine sewage strengths for billing purposes. The director of community services shall determine the method and frequency of testing as may be reasonable for each customer in accordance with recognized engineering practices; provided, however, that a user shall be entitled to additional sampling at its request upon payment of additional costs therefor. In lieu of sampling and analysis by the city, the director of community services, at the director's discretion, may permit a user to collect and analyze samples of its own sewage at its own expense, providing samples are taken at least annually, collected and analyzed in accordance with provisions of the latest editions of Standard Methods for the Examination of Water and Wastewater, and the results are certified by a professional engineer registered in the state. The city reserves the right to verify submitted data.

- (5) The symbols, letters or figures employed in the formula signify the following:

S	=	Extra strength surcharge in dollars
V _s	=	Sewage volume in 1,000 gallons
0.00838	=	Conversion factor for milligrams per liter to pounds per 1,000 gallons
\$0.079	=	Unit O&M charge for BOD in dollars per pound
BOD	=	BOD strength in milligrams per liter
\$0.045	=	Unit O&M charge for suspended solids in dollars per pound
SS	=	Suspended solids strength in milligrams per liter
ESC	=	Extra strength control charge

- (c) *Treatment to reduce concentrations.* The owner of any commercial or industrial establishment may, if so desired, treat the wastes from such establishment so as to reduce either the excess suspended solids or BOD, or both, to normal levels before discharging such wastes into the public sewers. In cases where it is believed such wastes may be deleterious to the sewerage receiving stream, the director of community services may require treatment to reduce either or both the suspended solids and BOD to levels more closely approaching those of normal sewage before discharging such wastes into the city sewers.

(Code 1974, § 29-22.1)

Sec. 6.110.330. Right of entry of sewer inspector, etc.

The sewer inspector or the sewer inspector's duly authorized representative, possessing proper credentials and identification, shall be permitted to enter all properties at reasonable times for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this chapter.

(Code 1974, § 29-26)

Sec. 6.110.340. Construction of drains prohibited which allow entrance of stormwater or surface water into sewage system.

It shall be unlawful to make, or cause to be made, a connection of any roof drain, foundation drain, areaway drain, yard or court drain, or any drain whatsoever which will permit, allow or cause any stormwater or surface water to enter the sanitary sewage system.

(Ord. No. 3.621, § 1(33.700.050), 7-28-1997)

Sec. 6.110.350. Method of connection to sewage system where cesspools septic tanks, etc., exist.

It shall be unlawful to connect, or to cause to be connected, to the sanitary sewage system the effluent of any septic tank, cesspool or sewage tank. Where such tanks exist and it is desired to make a connection to the sanitary sewage system, a tile line shall be constructed around the unit, in such a manner as to preclude the possibility of any sewage flowing into or out of the cesspool or tank, and such septic tank, cesspool or sewage tank shall then be filled with earth, sand, gravel, concrete or other approved material.

(Ord. No. 3.621, § 1(33.700.060), 7-28-1997)

Division II. Requirements and Specifications

Sec. 6.110.360. Applicability of division.

The requirements and regulations set forth in this division shall apply to all sewers within the city.

(Ord. No. 3.621, § 1(33.700.080), 7-28-1997)

Sec. 6.110.370. Definitions.

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

Drain means a sewer or other pipe or conduit used for conveying groundwater, surface water or stormwater.

Industrial wastes means the liquid waste resulting from processes employed in industrial establishments.

Potable water means water which is safe for drinking or other sanitary purposes and is also suitable for domestic use.

Roof drain means a conduit for conveying stormwater or rainwater from a roof.

Sanitary or domestic sewage means sewage from a building used for human habitation or occupancy, with no addition of any stormwater, surface water or groundwater.

Sanitary sewer means a sewer intended to receive sanitary sewage with or without industrial waste and without the admixture of surface water or stormwater entering from footing drains, foundation drains, downspout drains, areaway drains or excessive infiltration of any source.

Service sewer means the conduit or pipe from the public sewer to the building served.

Sewage means the liquid waste conducted away from residences, business buildings or institutions, together with those from industrial establishments.

Sewerage system means the network of sewers, together with sewage lift station and all appurtenances necessary for the collection of sewage.

Sewer means a conduit for carrying sewage.

Surface water means that portion of rainfall or other precipitation which runs off over the surface of the ground.

(Code 1974, § 29-34)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 6.110.380. Sanitary and storm sewer; application; form contents and required provisions; conditions prerequisite to use of extensions.

Any application for extension of a sanitary sewer main or storm sewer main or structure shall conform to requirements and regulations set forth in section 6.110.040, specifically subsections 6.110.040(a)(1)—(7).

(Ord. No. 3.621, § 1(33.700.090), 7-28-1997)

Sec. 6.110.390. Sanitary sewer construction materials.

Materials used in construction of sanitary sewers shall be adapted to local conditions, with consideration given to character of wastes, trench loading, and foundation conditions. Pipeline materials shall consist of:

- (1) Cast iron pipe conforming to American National Standards Institute designation A21.6;
- (2) Ductile iron pipe conforming to American National Standards Institute designation A21.51;
- (3) Polyvinyl chloride (PVC) pipe conforming to American Society of Testing Materials designation D3034, with a minimum wall thickness conforming to SDR-35. Reinforced concrete pipe conforming to American Society of Testing Materials designation C-76, C-506 and C-507 may be used for sanitary sewers 20 inches in diameter or larger. All pipelines shall be designed and constructed in accordance with the technical specifications and design criteria manual of the city.

(Ord. No. 3.621, § 1(33.700.100), 7-28-1997)

Sec. 6.110.400. Design flow.

The design flow shall be 100 gallons per day per person, which includes an allowance for normal infiltration.

(Ord. No. 3.621, § 1(33.700.110), 7-28-1997)

Sec. 6.110.410. Reduction of infiltration and exfiltration rate.

The maximum allowable infiltration or exfiltration rate shall be reduced to 200 gallons per inch of pipe diameter per mile of sewer per day.

(Ord. No. 3.621, § 1(33.700.120), 7-28-1997)

Sec. 6.110.420. Size and location generally; protection of pipes.

No public sewer shall be less than eight inches in diameter. Public sewers shall be placed at depths to provide drainage to the lowest level of buildings to be served. All public sewers shall be installed and made available to adjacent properties.

(Ord. No. 3.621, § 1(33.700.130), 7-28-1997)

Sec. 6.110.430. Maintenance of uniform gradient when sewers increased or decreased in size.

When sewers are increased or decreased in size, the invert of the larger sewer shall be lowered sufficiently to maintain a uniform gradient.

(Ord. No. 3.621, § 1(33.700.140), 7-28-1997)

Sec. 6.110.440. Protection against erosion and shock.

Where the slope of sewers and volume are such that velocities of 12 feet per second or more are realized at average flow, special provision shall be made to protect against erosion and shock.

(Ord. No. 3.621, § 1(33.700.150), 7-28-1997)

Sec. 6.110.450. Minimum daily flow requirements for new systems.

New sewage systems shall be designed on the basis of average daily per capita flow of sewage of not less than 100 gallons per day. Lateral sewers and submain sewers shall be designed with capacities, when running full, of not less than 400 gallons per capita per day. Main, trunk and outfall sewers shall be designed with a capacity, when running full, of not less than 250 gallons per capita per day, with adequate allowances for additional sewage or wastes from commercial or industrial concerns.

(Ord. No. 3.621, § 1(33.700.160), 7-28-1997)

Sec. 6.110.460. Manholes—Generally.

Manholes shall be installed at the end of each line; at all changes in grade, size or alignment; at all intersections; at distances not greater than 400 feet for sewers 15 inches or less and 500 feet for sewers over 15 inches; and where pipes of two unlike materials join. Greater spacing may be permitted in larger lines and those lines carrying a settled effluent. Cleanouts, when permitted, shall not be substituted for manholes or installed at the end of lateral sewers greater than 150 feet in length. It shall be the developer's responsibility to ensure that manhole covers are properly placed to reduce infiltration and other associated hazards.

(Ord. No. 3.621, § 1(33.700.170), 7-28-1997)

Sec. 6.110.470. Same—Minimum diameter.

The minimum diameter of manholes shall be 48 inches.

(Ord. No. 3.621, § 1(33.700.180), 7-28-1997)

Sec. 6.110.480. Same—Permitted types of construction.

Manholes shall be precast manholes as approved by the engineering department.

(Ord. No. 3.621, § 1(33.700.190), 7-28-1997)

Sec. 6.110.490. Same—Drop pipes required: construction requirements generally for drop manholes.

Outside drop pipes shall be provided for sewers entering a manhole at an elevation of 24 inches or more above the manhole invert. Where the difference in elevation between the incoming sewer and the manhole invert is less than 24 inches, the invert shall be filleted to prevent solids deposition. The lower ell on all drop manholes shall be encased in concrete to an elevation even with the top of the horizontal leg of the ell. The concrete shall extend down to the footing of the manhole or to undisturbed earth.

(Ord. No. 3.621, § 1(33.700.200), 7-28-1997)

Sec. 6.110.500. Same—Flow channels.

Flow channels through manholes shall be made to conform in size, shape and slope to that of the sewers. They shall be smoothed to a high finish.

(Ord. No. 3.621, § 1(33.700.210), 7-28-1997)

Sec. 6.110.510. Same—Covers.

Watertight manhole covers shall be used where manholes are subject to flooding by surface water. Manhole ring and lid, in general, shall be the Clay and Baily type Number 201 IMR or approved equal. Where manholes are located within street right-of-way or subject to vehicular traffic, a heavy-duty manhole ring and a lid of the Clay and Baily type Number 2007MR or approved equal shall be used.

(Ord. No. 3.621, § 1(33.700.220), 7-28-1997)

Division III. Fees, Charges and Assessments

Sec. 6.110.520. Sewer connection charge—When levied; amount.

In the event that an additional habitable structure is constructed on any lot, tract or parcel of ground listed in exhibit A, on file in the office of the city clerk, a charge in the amount of \$300.00 is hereby levied for each connection made for any such habitable structure to the city sewerage system. Such charge shall be in addition to and not in lieu of any other connection fee or other charge required by statute or ordinance.

(Code 1974, § 29-61)

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(Supp. No. 9)

Editor's note(s)—The exhibit referred to in the preceding section is not printed herein, but is on file in the city offices.

Sec. 6.110.530. Same—To constitute lien on property affected.

Such connection charge levied pursuant to section 6.110.520 shall be a lien on the lot, tract or parcel of ground upon which the habitable structure is constructed.

(Code 1974, § 29-62)

Sec. 6.110.540. Same—Payment prerequisite to issuance of plumbing permit, etc.; payment to be to city treasurer.

No plumbing permit for sewer construction shall be issued and no sewer tap shall be allowed until such connection charge has been paid in full. Payment of such connection charge shall be made to the city treasurer.

(Code 1974, § 29-63)

Sec. 6.110.550. Same—Disposition of proceeds.

The connection charge so levied and collected shall be deposited in the combined waterworks and sewerage system fund and shall be used by the city as provided in Ordinance No. 1.326.

(Code 1974, § 29-64)

Editor's note(s)—Ordinance No. 1.326 has not been codified. It is on file in the office of the city clerk.

Sec. 6.110.560. Permit required; sewer tap charge.

No sewer connection shall be made without a permit obtained from the combined waterworks and sewer system department of the city. A charge as established from time to time by the city council and set out in the schedule of fees and charges on file in the office of the city clerk shall be made for each connection.

(Code 1974, § 29-65)

Sec. 6.110.570. Sewer service charges and commodity charges.

There is hereby levied a charge against every person occupying property having a sewer connection with the city sewer system or having sewers available for connection, or otherwise, discharging sewage, industrial waste, water or other liquid into the city's sewer system, such charge to be used to pay the cost of operating, maintaining, repairing, or enlarging the existing or future sewer systems. Such charge is to be the sum of a monthly service charge and a commodity rate charge to be computed and levied as follows:

- (a) *Domestic users.* For residential water service accounts (one and two-family residences), a monthly service charge and a commodity rate charge each as established in subsection (c) of this section, except, that for the billing periods April through December, the commodity rate charge shall be based upon the lesser of actual water used or an average of water used during the winter period of December, January, and February, billed in January, February, and March, such charges shall be payable with each bill rendered throughout the year. Where residential water service accounts do not have an acceptable history of winter water use, the commodity rate charge for the period April through November shall be the commodity rate charge established in subsection (c) of this section, or \$73.93 per monthly billing, whichever is the lesser.

(b) *Commercial and industrial users.* For commercial and industrial users (all persons and corporations other than the occupants of one and two-family residences), a monthly service charge and a commodity rate charge as established in subsection (c) of this section.

(c) *Charges.*

(1) A monthly service charge of \$14.40.

(2) A commodity rate charge based on the total volume of water purchased by the customer during the billing period of \$9.92 per 1,000 gallons.

(Code 1974, § 29-66; Ord. No. 3.758, § 1, 5-22-2000; Ord. No. 4.072, § 1, 4-28-2008; Ord. No. 4.142, § 1, 4-26-2010; Ord. No. 4.187, § 1, 4-25-2011; Ord. No. 4.238, § 1, 5-13-2013; Ord. No. 4.266, § 1, 5-12-2014; Ord. No. 4.304, § 1, 4-27-2015; Ord. No. 4.352, § 1, 5-23-2016; Ord. No. 4.368, § 1, 11-14-2016; Ord. No. 4.387, § 1, 5-22-2017; Ord. No. 4.432, § 1, 6-14-2018; Ord. No. 4.473, § 1, 6-10-2019)

Sec. 6.110.580. Payment of surcharge.

(a) *Inclusion on water bill.* Any surcharge as defined in section 6.110.320 shall be shown on the water bill as a separate item which shall show the amount of the surcharge and shall be payable to the city at the same time as the water bill and the normal sewer service charge.

(b) *Deposit; use of revenue.* All surcharge revenue collected in accordance with the provisions of this section shall be deposited in the same separate fund as is the revenue collected for the normal sewer service charge.

(Code 1974, § 29-66.1)

Sec. 6.110.590. Collection; penalty; discontinuation of services; turn-on charge.

Services shall be deemed furnished both to the occupant and owner of the premises and the city manager is hereby authorized to discontinue water service upon any failure to pay within a reasonable time the charges fixed for both water and sewer services. A penalty of five percent of the water charge shall be assessed if full payment is not received on or before the tenth day of the month following the date of such bill. If payment is not received within 30 days of the date of such bill, services may be discontinued at the discretion of the city manager. If such water service is discontinued, a turn-on charge shall be made as provided in rules and regulations governing the conduct of the water department.

(Code 1974, § 29-67)

Sec. 6.110.600. Agreement to govern sewers connected to sewers of Kansas City.

With respect to any sewer connected to the sewers of the City of Kansas City, Missouri, the provisions of the Cooperative Agreement for Sewer Service approved by Ordinance No. 1.315, dated August 10, 1964, shall govern.

(Code 1974, § 29-68)

Editor's note(s)—Ordinance No. 1.315 has not been codified. It is on file in the city clerk's office.

State law reference(s)—Authority for agreements between municipalities, RSMo 250.220.

Sec. 6.110.610. Tampering with water mains and meters or sewer lines; reconnection of service without permission.

It shall be unlawful for any person or persons to tamper with any water main, water meter or sewer line or to make any connection to the combined waterworks and sewerage system of the city without permission from the city or to reconnect service when service has been discontinued for nonpayment of a bill for service until such bill, including any reconnection charge, has been paid in full.

(Code 1974, § 29-69)

CHAPTER 115. MANAGING EXCAVATION AND USE OF CITY RIGHTS-OF-WAY⁴⁷

⁴⁷Editor's note(s)—Ord. No. 4.435 Editor's note(s)—, § 2(Exh. A), adopted June 14, 2018, amended ch. 115 in its entirety to read as herein set out. Former ch. 115, §§ 6.115.010Editor's note(s)—6.115.030, 6.115.100Editor's note(s)—, 6.115.200Editor's note(s)—6.115.240, 6.115.310Editor's note(s)—6.115.420, 6.115.510Editor's note(s)—6.115.600, 6.115.660Editor's note(s)—6.115.690, 6.115.760Editor's note(s)—6.115.830, 6.115.1010Editor's note(s)—6.115.1030, 6.115.1110Editor's note(s)—6.115.1130, 6.115.1210Editor's note(s)—6.115.1230, 6.115.1310Editor's note(s)—6.115.1360 pertained to rights-of-way management, and derived from Ord. No. 4.017, 10-23-2006.

ARTICLE 1. IN GENERAL

Sec. 6.115.010. Purpose and declaration of policy.

This chapter is enacted to set out and clarify the authority of the city and its officers and employees with regards to the use, control, and management of the rights-of-way. The rights-of-way is a valuable public resource that has required, and continues to require substantial investment by the city. In particular, this chapter is enacted to:

- (1) Manage the rights-of-way to allow efficient location of facilities and maximize services to the citizens of the city.
- (2) Allow for the maximum utilization of the rights-of-way to meet the demands due to technical innovations.
- (3) Maintain a competitively neutral and non-discriminatory policy to ROW users and reseller service providers and allow the citizens of the city to receive the benefits of market competition.
- (4) Facilitate orderly construction and maintenance of facilities in the right-of-way, reduce the damage to the facilities or rights-of-way users, and minimize disruption of service to the citizens of the city.
- (5) Encourage responsible construction and maintenance practices in the city rights-of-way.
- (6) Ensure proper restoration of the city's rights-of-way following construction and maintenance of rights-of-way facilities.
- (7) Minimize the physical disruption of the rights-of-way and maintain the aesthetic quality throughout the city.
- (8) Protect the health, safety, and welfare of the citizens of the city.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.020. Definitions.

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

Abandoned facilities means any equipment materials, apparatuses, devices or facilities that are either declared abandoned by the owner of such equipment or facilities; or, no longer in active use, physically disconnected from a portion of the operating facility or any other facility that is in use or in service, and no longer capable of being used for the same or similar purpose for which the equipment, apparatuses, or facilities were installed; or no longer in active use and the owner of such equipment or facilities fails to respond within 30 days to a written notice sent by the city, or as otherwise may be defined by applicable law.

Administrative fee means the fee charged by the city to recover its actual cost incurred for rights-of-way management; including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying rights-of-way permit applications; inspection of job sites and restoration improvements; determining the adequacy of rights-of-way restoration; restoring work inadequately performed after providing notice and the

opportunity to correct the work; revoking rights-of-way permits and, other costs that may be considered "management costs" or "rights-of-way management costs" in accordance with RSMo 67.1830.

Affiliate means any person controlling, controlled by, or under the common control of a ROW user or reseller service provider.

Antenna means any device that transmits and/or receives electromagnetic wireless radio waves or signals for voice, data or video communications purposes including, but not limited to, television, text, AM/FM radio, microwave, cellular telephone, communications service, or otherwise.

Applicant means any person requesting permission to use, occupy, lease, or operate facilities in the rights-of-way or to excavate the rights-of-way.

City means the City of Gladstone, Missouri, a municipal corporation and any duly authorized representative.

City council means the city council of the City of Gladstone, Missouri.

Commission means the state public service commission.

Communications service means the transmission via facilities, in whole or in part, of any writing, signs, signals, pictures, sounds, or other forms of intelligence through wire, wireless, or other means, including, but not limited to, any telecommunications service, enhanced service, information service, or internet service, as such terms are now, or may in the future be, defined under applicable law, and including all instrumentalities, facilities, apparatus (communications facilities), and services (among other things, the receipt, forwarding, and delivery of telecommunications) incidental to such transmission or designed to directly or indirectly facilitate or accept such transmission and shall also include "video services" as defined in RSMo 67.2677. The term "communications service" does not include the rental of conduit or physical facilities.

Construct means and includes construct, install, erect, build, affix, or otherwise place any fixed structure or object, in, on, under, through, or above the rights-of-way.

Day means calendar day unless otherwise specified.

Director of public works or *director* means the director of public works of the city or his authorized representative.

Emergency includes but is not limited to the following:

- (1) An unexpected or unplanned outage, cut, rupture, leak, or any other failure of a public utility facility that prevents or significantly jeopardizes the ability of the public utility to provide service to customers;
- (2) An unexpected or unplanned outage, cut, rupture, leak, or any other failure of a public utility facility that results or could result in danger to the public or a material delay or hindrance to the provision of service to the public if the outage, cut, rupture, leak, or any other such failure of public utility facilities is not immediately repaired, controlled, stabilized, or rectified; or
- (3) Any occurrence involving a public utility facility that a reasonable person could conclude, under the circumstances, that immediate and undelayed action by the public utility is necessary and warranted.

Excavation means any act by which earth, asphalt, concrete, sand, gravel, rock, or any other material in or on the ground is cut into, dug, uncovered, removed, or otherwise displaced, by means of any tools, equipment, or explosives, except that the following shall not be deemed excavation:

- (1) Any de minimis displacement or movement of ground caused by pedestrian or vehicular traffic;
- (2) The replacement of utility poles and related equipment at the existing general location that does not involve either a street or sidewalk cut; or
- (3) Any other activity which does not disturb or displace surface conditions of the earth, asphalt, concrete, sand, gravel, rock, or any other material in or on the ground.

Excavation permit means a permit authorizing excavation for the construction or installation of facilities in the city's rights-of-way.

Excess capacity means the remaining volume or capacity in any existing or future duct, conduit, manhole, handhold, or other facility, including dark fiber, in the ROW that is used, or authorized by the ROW user to be used, by others.

Facility means the plant, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, plant, equipment, or any other related structure located under, on, or above the surface of the ground within the rights-of-way of the city and used or to be used for the purpose of providing services; provided this term shall not authorize antennas, towers, or other structures or equipment for wireless communications unless having been expressly consented to by the city in writing pursuant to supplemental requirements and regulation of the city.

Facilities maintenance or *maintenance* means the construction, installation, repair, upgrade, or other physical access to the facility in the ROW that does not involve excavation.

Facilities maintenance permit means a permit issued by the city for the ROW user to provide maintenance to its facilities or otherwise perform work in the ROW that does not involve excavation but requires physical access to the facilities in the ROW.

FCC means the Federal Communications Commission.

Franchise means a binding and accepted ordinance for certain ROW users to occupy the ROW for the purpose of providing, transporting, or distributing electricity, gas, water, steam, lighting, energy, or sewer service to any person or area in the city's limits and boundaries.

Government entity means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district, or other municipal corporation, quasi-municipal corporation, or political subdivision of the State of Missouri or of any other state of the United States, and any agency or instrumentality of the State of Missouri or of any other state of the United States or of the United States.

License means the executed agreement between the city and a person to use and occupy the rights-of-way for the purpose of installing incidental temporary facilities within the rights-of-way or incidental uses such as ingress and egress facilities, lateral utility lines, or driveway aprons.

Major project means a project that exceeds the size and conditions of a "minor project."

Managing the public rights-of-way means the actions the city takes, through reasonable exercise of its police powers, to impose rights, duties, and obligations on all users of the rights-of-way, including the city itself, in a reasonable, competitively neutral and nondiscriminatory and uniform manner, reflecting the distinct engineering, construction, operation, maintenance, and public work and safety requirements applicable to the various users of the public rights-of-way, provided that such rights, duties, and obligations shall not conflict with any federal law or regulation.

Minor project means a project involving excavation of the public rights-of-way, whether or not it involves disturbance of sidewalks or streets, in which a single excavation of no greater than 150 square feet is made.

Parkway means the area between the street curb and the rights-of-way line.

Pavement means and includes Portland cement concrete pavement, asphaltic concrete pavement, asphalt treated road surfaces, and any aggregate base material.

Permit or rights-of-way (ROW) permit for the purposes of this chapter, means an excavation permit, facilities maintenance permit, or other permit authorizing work in the ROW.

Permittee means any person to whom a permit has been issued to work, excavate, or locate specific facilities within the rights-of-way.

Person means any natural or corporate person, business association, or business entity including but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

Public improvement means any project undertaken by the city for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, water mains, drainage facilities, traffic control devices, street lights, public facilities, public buildings, or public lands, providing that projects undertaken by the city for the construction, reconstruction, maintenance, or repair of any public infrastructure funded by or substantially by user fees imposed upon those using the public infrastructure shall not be deemed "public improvements" and shall not be exempt from the permit requirements of this chapter.

Public lands means any real property of the city that is not rights-of-way.

Repair means the temporary construction work necessary to make the rights-of-way useable.

Reseller service provider means a person providing service within the city limits that does not have its own facilities in the rights-of-way, but instead uses the rights-of-way by interconnecting with the network elements of a ROW user utilizing the rights-of-way, and/or by using excess capacity from a ROW user with no right to physically access facilities or the rights-of-way.

Restoration means the process by which an excavated rights-of-way and surrounding area, including pavement and foundation, is returned to the same condition that existed before the commencement of the work.

Rights-of-way (ROW) means the area on, below, across, or above a public roadway, highway, streets, alleys, bridges, bikeways, parkways, and sidewalks in which the city has an ownership interest and including such adjacent areas of such public ways within such ownership interest as made available by the city for ROW use herein, but not including: (a) the airwaves above a public rights-of-way with regards to cellular or other non-wire telecommunications or broadcast service; (b) easements obtained by utilities or private easements in platted subdivisions or tracts; (c) poles, pipes, cables, conduits, wires, optical cables, or other means of transmission, collection or exchange of communications, information, substances, data, or electronic or electrical current or impulses utilized by a municipally owned or operated utility pursuant to RSMo ch. 91, or pursuant to a charter form of government; or (d) easements obtained by utilities or private easement in platted subdivision or tracts.

Rights-of-way (ROW) use agreement means the rights and obligations extended by the city to a person, corporation, association, firms, partnerships, or others to erect facilities or other structures within the city rights-of-way for the purpose of providing any form of communications service to any person or area within the city's limits and boundaries for which a franchise or license is not applicable subject to the regulations and requirements herein.

Rights-of-way (ROW) user (ROW user or ROW-user) means all persons and entities, whether a commission registered utility or otherwise, owning, controlling, leasing, maintaining, using, or installing facilities in the rights-of-way of the city, not otherwise expressly exempted. A ROW user shall not include reseller service provider, ordinary vehicular or pedestrian traffic, or to the extent permitted by law, any governmental entity that has entered into an inter-local agreement with the city regarding the use and occupancy of the city's rights-of-way.

Routine service operation means a work that makes no material change of the facilities and does not disrupt traffic.

Service means a commodity provided to a person by means of a delivery system that is comprised of the facilities located or to be located in the rights-of-way, including, but not limited to gas, telephone, cable television, internet services, open video systems, alarm systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage.

Street means the pavement and sub-grade of a city residential, collector, or arterial roadway.

Utility means and includes any corporations, companies as associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees, and receivers; which provide communications, electric, natural gas, or other such services to their customers. For purposes of this chapter, this term does not include the city except as maybe required by law.

Utility easement means any easement owned by the city and acquired, established, dedicated, or devoted for public utility purposes.

Work means excavation and/or the construction, installation, repair, or maintenance of any type of facility within the rights-of-way.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.030. Applicability; exceptions.

Unless otherwise provided in a license, franchise, or rights-of-way use agreement, or where limited by applicable law, any person that utilizes the city's rights-of-way, is subject to the requirement of this chapter. No person shall commence or continue with the operation of any facilities or structures in the ROW except as provided and in compliance with this chapter. Because numerous types of users and uses of the ROW may be subject to various or changing regulatory schemes under federal or state law, any such limitation or qualification that may be applicable to less than all users and uses of the ROW are not duplicated herein, but are nevertheless incorporated herein, whenever application is so required by law, including but not limited to applicable provisions of RSMo ch. 67 and other applicable state and federal law. The requirements of this chapter shall be in addition to any obligation contained in any license, franchise, or rights-of-way use agreement except in those instances where the provisions of this chapter and a license, franchise, or rights-of-way use agreement which existed on the date of adoption hereof and specifically inconsistent with like provisions of occupancy or construction and excavation within the city's rights-of-way until:

- (1) The expiration of said franchise or rights-of-way use agreement;
- (2) An agreement to an unexpired franchise or rights-of-way use agreement is added; or
- (3) Both parties agree to defer full compliance to a specific date not later than the present expiration date of the preexisting agreement.

No provision of this chapter shall apply to any circumstance in which such application shall be unlawful under superseding federal or state law and furthermore, if any section, subsection, sentence, clause, phrase, or portion of this chapter is now or in the future superseded or preempted by state or federal law or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

ARTICLE 2. ADMINISTRATION AND AUTHORITY

Sec. 6.115.100. Director of public works.

The director of public works is the principal city official for administration of the rights-of-way registration and permits. The director of public works may delegate any and all duties under this chapter consistent with the ordinances of the city.

ARTICLE 3. PROCEDURES

Division I. Agreements.

Sec. 6.115.200. Agreement, license, or franchise required; requirements.

- (a) Except where otherwise authorized or required by applicable law, no person may construct, maintain, own, control, or use facilities or other structures in the right-of-way without a franchise, license, or right-of-way use agreement with the city as provided herein.
 - (1) *Franchise.* A franchise shall be obtained in conformance with all applicable franchise procedures for any person or utility seeking to use the rights-of-way for purposes of providing service of distribution of electricity, gas, water, steam, lighting, or sewer public utility service in the city.
 - (2) *Rights-of-way use agreement.* A rights-of-way use agreement shall be required for all other persons desiring to use the rights-of-way, except as provided herein or otherwise required by law. Such agreement shall conform to all applicable laws and requirements including as provided in this chapter for ROW user providing communication services, if applicable, but shall not be subject to procedures applicable to franchises.
 - (3) *License.* Persons desiring to install an incidental use, which includes installation of temporary structures or non-wireless facilities within the rights-of-way and installation of permanent incidental uses such as driveway aprons, ingress or egress facilities, and similar incidental uses that utilize a small area of the rights-of-way and serves the principal structure, on, in, or above the rights-of-way may be permitted without a franchise or rights-of-way agreement pursuant to a license issued by the director. The director may establish such application, requirements, and conditions, applicable to such uses consistent with the purposes of this chapter or as otherwise established by law. The applicant shall be required to pay an application fee and an inspection fee as established by the city. Any person granted a license hereunder shall be subject to the applicable requirements of this chapter. Unless otherwise stated in the license, a license shall be for an indefinite term and shall be revocable at any time on written notice in the public interest by the city.
- (b) The authority granted by the city in any agreement, license, or franchise shall be for non-exclusive use of the rights-of-way. The city specifically reserves the right to grant, at any time, such additional agreements or other rights to use the rights-of-way for any purpose and to any other person, including itself, as it deems appropriate, subject to all applicable laws. The granting of any agreement, license, or franchise shall not be deemed to create any property interest of any kind in favor of the ROW user. All franchises and agreements shall be approved by the city council on a non-discriminatory basis provided that the applicant is in compliance with all applicable requirements. Licenses may be approved by the director on a non-discriminatory basis provided that the applicant is in compliance with all applicable requirements. Such franchises, licenses, and agreements shall be deemed to incorporate the terms of this chapter and other applicable laws of the city, except as may be expressly stated in such agreements, licenses, and franchises. The city may require compensation for use of the rights-of-way or other public property as may be reasonably required by the city council, subject to applicable law.
- (c) Unless prohibited by applicable law, no permit for excavation may be issued unless or until such applicant has a valid franchise, license, or rights-of-way use agreement with the city.

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- (d) The city makes no express or implied representation or warranty regarding its rights to authorize the installation or construction of facilities on any particular segment of rights-of-way and shall not be liable for any damage therefrom. The burden and responsibility for making all such determinations in advance of construction or installation shall be entirely upon the ROW user.
 - (e) No ROW use agreement, franchise, or license shall grant the right to use facilities owned or controlled by the city or a third party, and no such use shall occur, without the express written consent of such party (on file with the city and subject to other applicable requirements), nor shall any franchise, ROW use agreement, or license excuse such person from first obtaining a pole attachment agreement or other express consent for such right or use before locating on the facilities controlled or owned by the city or a third party.
 - (f) Unless otherwise provided, use or installation of any facilities or other structure in, on, or over public lands shall be permitted only if a lease agreement or other separate written approval has been negotiated and approved by the city with such reasonable terms as the city may require.
 - (g) Prior to providing service within the city or acquiring or using excess capacity through facilities in the city, reseller service providers shall provide written notice to the city of the intent to do so and register with the city as provided herein. It shall be unlawful for any reseller service provider not having its own agreement or franchise to transmit communications for commercial purposes through any facility owned by a person without a valid agreement or other city authorization for such facilities. Any reseller service provider that buys or leases excess capacity or other services for resale from a ROW user, shall be subject to the terms and conditions of this chapter, including the requirement to first register with the city and obtain any necessary permit, license, certification, grant, registration, franchise agreement, or any other authorization required by any appropriate governmental entity, including, but not limited to, the city, commission, or the FCC. If a person through such lease or purchase owns facilities in the rights-of-way or has the right to physically access or maintain any facilities in the rights-of-way, then such person no longer meets the definition of a reseller service provider and is required to first obtain a franchise, license, or rights-of-way use agreement as required herein.
 - (h) Each ROW user shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state, and local requirements.
 - (i) In case of failure on the part of the ROW user, including its successors and assigns, to comply with any of the provisions of this chapter or a ROW use agreement, franchise, or license, or if the ROW user, its successors and assigns should do or cause to be done any act or thing prohibited by or in violation of this chapter or the terms of the authorization of such use, or otherwise loses authority to provide its service in the city, the ROW user, its successors and assigns shall forfeit all rights and privileges permitted by this chapter and any ROW use agreement, franchise, or license, and all rights hereunder shall cease, terminate, and become null and void, provided that said forfeiture shall not take effect until the city shall carry out the following proceedings: Before the city declares the forfeiture or revocation of a rights-of-way use agreement, franchise, or license, it shall first serve a written notice upon the person setting forth in detail the neglect or failure complained of, and the person shall have 30 days thereafter, or such other reasonable period established by the city council, in which to cure the default by complying with the conditions of the ROW use agreement, franchise, or license and fully remedying any default or violation. If at the end of such period the city determines that the conditions have not been complied with and that the person did not reasonably and in the public interest require more than 30 days to cure the default, the city shall take action by an affirmative vote of the city council present at the meeting and voting to terminate the ROW use agreement, franchise, or license, setting out the grounds upon which said agreement or other authorization is to be forfeited or revoked. Nothing herein shall prevent the city from invoking any other remedy or from declaring immediate forfeiture where the default is incapable of being cured by the ROW user, including where such defaults or violations have repeatedly occurred.

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- (j) No action or omission of the city shall operate as a future waiver of any rights of the city under this chapter. Except where rights are expressly granted or waived by a permit, ROW use agreement, franchise, or license they are reserved, whether or not expressly enumerated.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.205. Application process.

- (a) Application for franchise or agreement required in accordance with the following:
- (1) *Application.* An application for a franchise or rights-of-way use agreement shall be presented to the director in writing on the form provided by the city and shall include all such information as is required by this section and on the application form. All ROW users shall be responsible for accurately maintaining the information in the application during the term of any franchise or rights-of-way use agreement and shall be responsible for all cost incurred by the city due to the failure to provide or maintain as accurate any application information required herein.
 - (2) *Application form.* All applicants shall submit a completed application for a franchise or rights-of-way use agreement on such form provided by the city, which shall include information necessary to determine compliance with this chapter including, but not limited to:
 - a. Identity and legal status of the proposed rights-of-way user.
 - b. Name, address, telephone number, fax number, and e-mail address of each officer, agent, or employee responsible for the accuracy of the application. Each officer, agent, or employee shall be familiar with the local facilities of the proposed ROW user, shall be the person(s) to whom notices shall be sent, and shall be responsible for facilitating all necessary communications including, but not limited to, certification to the city of any material changes to the information provided in such completed application during the term of any franchise or agreement.
 - c. Name, address, telephone number, fax number, and e-mail address of the local representative of the proposed ROW user who shall be available at all time to act on behalf of the ROW user in the event of an emergency.
 - d. Proof of any necessary permit, license, certification, grant, registration, franchise agreement, or any other authorization required by any appropriate government entity including, but not limited to, the FCC or the commission.
 - e. Description of the proposed ROW user's intended use of the right-of-way, including such information as to proposed services so as to determine the applicable, federal, state, and local regulatory provisions as may apply to such ROW user.
 - f. A list of authorized agents, contractors, and subcontractors eligible to obtain permits on behalf of the proposed ROW user. An application may be updated to add such person at the time of permit application if the updated application is submitted by an authorized representative of the ROW user.
 - g. Information sufficient to determine the amount of net assets of the proposed ROW user.
 - h. Information sufficient to determine whether the proposed ROW user is subject under applicable law to franchising, service regulation, payment of compensation for use of the rights-of-way, taxation, or other requirements of the city.
 - i. An application deposit fee of \$2,400.00 is required for a rights-of-way use agreement application and an application deposit fee of \$5,400.00 is required for a franchise application. Such deposit fees shall be utilized to offset the city's costs in review and issuance of a rights-of-way use

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agreement or franchise agreement, consistent with applicable law. Any amount not used by the city for its actual lawfully reimbursable costs will be refunded to the applicant on request after execution of the rights-of-way use agreement or franchise agreement. If applicable, the applicant shall be obligated to reimburse the city for its reasonable expenses associated with the review, negotiation, and adoption of an appropriate rights-of-way use agreement or franchise agreement that may reasonably exceed the application deposit amount.

- j. Any request including one or more antennas shall also include all requirements for installation of antennas and wireless facilities set forth in the Uniform Wireless Communications Infrastructure Deployment Act (RSMo 67.5090 et seq.) or other applicable law; and
 - k. Such other information as may be reasonably required by the city to determine requirements and compliance with the applicable regulation.
- (3) *Approval process.* After submission by the proposed ROW user of a duly executed and completed application and application deposit fee and an executed franchise or rights-of-way use agreement as may be provided by the director or as modified by the director in review of the specific circumstances of the application, all in conformity with the requirements of this chapter and all applicable laws, the director shall submit such agreement to the city council for approval. Upon determining compliance with this chapter, the city council shall authorize execution of the franchise or rights-of-way use agreement (or modified agreement otherwise acceptable to the city consistent with the purpose of this chapter) and such executed franchise or agreement shall constitute consent to use the rights-of-way in accordance with this chapter and the agreement; provided that nothing herein shall preclude the rejection or modification of any executed franchise or agreement submitted to the city to the extent such applicable law does not prohibit such rejection or modification, including where necessary to reasonably and in a uniform or non-discriminatory manner reflect the distinct engineering, construction, operation, maintenance, public work, or safety requirements applicable to the person or use.
- (4) *Standard for approval or renewal.* In reviewing an application for a new or renewal ROW use agreement or franchise, the city may consider prior conduct of the person in performance of its obligations or compliance with the city's ordinances in the past, or the existence of any outstanding violations or deficiencies. The city may deny or condition any ROW use agreement or franchise where the proposed use would interfere with the public use of the rights-of-way or otherwise conflict with the legitimate public interests of the city, to fulfill the requirements and objections of this chapter or as otherwise provided by law. All ROW use agreements and franchises shall be approved, conditioned, or denied based on compliance with all applicable requirements herein, and conformance with applicable law and the public interest.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.210. Registration.

- (a) Any existing ROW user must register within 30 days of the effective date of the ordinance from which this chapter derives. Prior to providing service (including sale or transfer of product or service) within the city or acquiring or using excess capacity through facilities in the city, all reseller service providers must register with the city. Prior to providing service within the city, transmitting communications through facilities in the city, or constructing in the rights-of-way entities not required to obtain a franchise, license, or rights-of-way use agreement due to superseding federal or state law, shall nevertheless be required to register with the city.

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- (b) Any person, who is not a ROW user prior to the effective date of the ordinance and who wishes to become a ROW user, must first obtain a franchise, license, rights-of-way use agreement, or other authorization from the city.
 - (c) A ROW user is authorized, subject to other applicable requirements, to sell or transfer use of excess capacity to reseller service providers or other entities, provided that such entity either: (1) has no right to and does not physically access the facilities while in the ROW, or (2) has a separate franchise or ROW use agreement or other written agreement or consent authorizing the same with the city. In the event of such sale or transfer to a reseller service provider, the ROW user shall notify the city of the same prior to such action so that the city can review compliance regarding doing business in the city. This notice shall not relieve the reseller service provider from its own obligation to register, pay taxes, and obtain any necessary authorization from the city.
 - (d) The ROW user shall be responsible for all costs incurred by the city due to the failure to provide any information to the city required for registration.
 - (e) Any reseller service provider that buys or leases excess capacity or other services for resale from a ROW user, shall be subject to the terms and conditions of this chapter, including the requirement to first register with the city and obtain any necessary permit, license, certification, grant, registration, franchise agreement, or any other authorization required by any appropriate governmental entity, including, but not limited to, the city, commission, or the FCC. If a person through such lease or purchase owns facilities in the rights-of-way or has the right to physically access or maintain any facilities in the rights-of-way, then such person no longer meets the definition of a reseller service provider and is required to first obtain a franchise, license, or rights-of-way use agreement as required herein.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.220. Registration changes.

Any person required to register herein shall report any changes in its registration within 30 days of the change or upon application for a permit, whichever comes first. Failure to report any change shall be a violation of this chapter.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.230. Registration form.

The valid registration shall be on the form provided by the city and at a minimum shall include the following:

- (1) Identity and legal status of the reseller service provider or other exempt entity, including related affiliates.
- (2) Name, address, telephone number, fax number, and email address of the officer, agent, or employee responsible for the accuracy of the registration statement. This officer, agent or employee shall be familiar with the local facilities of the reseller service provider or other exempt entity, shall be the person to whom notices shall be sent, and shall be responsible for facilitating all necessary communications.
- (3) Name, address, telephone number, fax number and email address of the local representative of a person who shall be available at all times to act on behalf of the reseller service provider or other exempt entity in the event of an emergency.

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- (4) Proof of any necessary permit, license, certification, grant, registration, franchise agreement, or any other authorization required by any appropriate governmental entity, including, but not limited to, the city, the FCC, or the commission.
 - (5) Information that identifies the owner of the facilities that will be used by the reseller service providers.
 - (6) A list of authorized agents, contractors, or subcontractors eligible to obtain permits on behalf of the reseller service provider or other exempt entity. A registration may be updated to add such person at the time of permit application if the updated registration is submitted by an authorized representative of the reseller service provider or other exempt entity.
 - (7) Such other information as may be reasonably required by the city to complete the registration statement.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.240. Transferability.

Except as provided in this chapter, or as otherwise required by law, no license, franchise agreement, rights-of-way use agreement, or registration may be transferred or assigned without the written application to and consent of the city. Consent to transfer a license, franchise agreement, rights-of-way use agreement, or registration shall not be unreasonably withheld by the city, and any costs incurred shall be paid by the ROW user to the extent allowed by law.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Division II. Permits for Work within City Rights-of-Way.

Sec. 6.115.310. Permits required.

- (a) No person shall perform work in the rights-of-way without a rights-of-way permit, unless an exemption to the permit requirement as provided in this chapter applies.
 - (1) *Excavation permit.* Except as otherwise provided herein, no ROW user or other person shall perform excavation work in the ROW without an excavation permit. Any person desiring to excavate in the ROW shall first apply for an excavation permit, in addition to any other building permit, license, easement, or other authorization required by law, unless such excavation must be performed on an emergency basis as provided herein. An excavation permit should be obtained for each project unless otherwise provided for in this chapter. A separate special permit or lease shall be required for excavation in or use of any public lands.
 - (2) *Facilities maintenance permit.* No person shall perform facilities maintenance at a specified location in the rights-of-way without first obtaining a facilities maintenance permit from the director of public works, except where such facilities maintenance is expressly authorized by an existing valid excavation permit for the applicable facilities maintenance location or is exempt herein. In addition to the applicable conditions and obligations set forth in this chapter, conditions of a facilities maintenance permit shall be as established in such permit and shall include requirements of notice to and approval by the city whenever traffic lanes are to be obstructed, manhole covers or safety barriers removed or altered, temporary or other barricades installed, and other events set forth in the facilities permit. A facilities maintenance permit shall not be required for:

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- a. ROW users performing routine maintenance which does not require excavation, does not disrupt traffic or pedestrians, and requires no more than four hours to complete, provided that at minimum two hours' notice is provided to the city during normal business hours;
 - b. Emergency situations; or
 - c. Contractors working on the construction or reconstruction of public improvements and which are operating pursuant to a contract with the city for such construction.
- (3) *Other permit.* No person owning or occupying any land abutting on a public rights-of-way shall construct, maintain, or permit in or on the portion of the public rights-of-way to which such land is adjacent, any fixed structure, material, or object without having obtained the appropriate permit and authorization from the city.
- (b) Application for a permit shall be submitted to the director of public works by the ROW user for whom the facilities will be installed.
 - (c) If the director of public works determines that the applicant has satisfied the requirements of this chapter, the director of public works shall issue a permit.
 - (d) Any ROW user who is found to be working in the public rights-of-way without a permit, failing to provide for required safety and traffic control measures, or otherwise violating any requirements herein will be directed to stop work until a permit is acquired and properly posted at the work site. The only exception allowed is for emergency repair work as defined herein; provided notice to the city of the emergency shall be provided at the earliest possible time. Fees shall be doubled for starting work without a valid permit.
 - (e) The city shall promptly, but not longer than 31 days, process all completed excavation permit applications. In order to avoid excessive processing and administrative costs to either the city or the rights-of-way user, the city may establish procedures for bulk processing of permits and periodic payment of permit fees.
 - (f) All applications for installation of above-ground equipment or facilities within the rights-of-way shall comply with the requirements of section 6.115.520 of this chapter.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.320. Permit form.

The applicable rights-of-way permit application shall be on the form provided by the director of public works and at a minimum shall include the following:

- (1) Compliance with all necessary registration and authorization requirements of this chapter.
- (2) If applicable to the work, attachments and scaled drawings showing the location and area of the proposed project, the location of all existing and proposed facilities at such location, the length, size, type, and proposed depth of any conduit or other enclosures, the number and character of each proposed cut or excavation, and the relationship of all facilities to all existing streets.
- (3) A traffic control plan, if applicable, including a work schedule indicating the extent and duration of such plan.
- (4) All applicable permit fees as provided in this chapter.
- (5) Payment of all monies due the city for permit fees and costs, for prior excavation costs, for any loss, damage, or expense suffered by the city because of the applicant's prior excavations of the rights-of-way or for any emergency actions taken by the city, unless the payment of such money is in dispute and timely appealed as provided hereafter.
- (6) Performance and maintenance bonds as provided in this chapter.

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- (7) Designation of a local person familiar with the facilities that shall act as a local agent for the ROW user and shall be responsible for satisfying any information requirement of this chapter. The application shall contain such person's name, address, telephone number, and email address. Such person shall be the person to whom relocation notices and other such notices shall be sent, and with whom rests the responsibility to facilitate all necessary communications. The ROW user shall be responsible for all costs incurred by the city due to the failure to provide such information to the city.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.330. Permit fees.

- (1) The applicable rights-of-way permit fee shall be recommended by the director of public works, approved by the city council, and set out in the schedule of fees and charges as maintained in the city clerk's office.
- (2) The director is to establish separate fee structures for minor and major projects, and for major projects, shall include standards for recovery of actual, substantiated costs based on additional staff involvement required by the size and complexity of such projects.
- (3) The rights-of-way permit fee shall include an administrative fee and inspection fee but shall not include attorney's fees or any fee prohibited by applicable law.
- (4) Fees paid for the rights-of-way permit, which is subsequently revoked by the director of public works are not refundable.
- (5) In the event the scope of the project is revised during the course of the work, the director of public works may recalculate the fee based on a change in the scope of work, and may require an additional administrative fee.
- (6) The ROW user shall be responsible for all reasonable costs borne by the city that are directly associated with ROW user's installation, maintenance, repair, operation, use, and replacement of its facilities in the rights-of-way that are not otherwise accounted for as part of the permit fee established pursuant to this chapter, to the extent permitted by law. All such costs shall be itemized and the city's books and records related to these costs shall be made available upon request of the ROW user.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.340. Permit conditions and ROW work.

- (a) The director of public works may impose reasonable conditions upon the issuance of a permit and the performance of the permittee in order to protect the public health, safety, and welfare, to ensure the structural integrity of the rights-of-way, to protect the property and safety of the other users of the rights-of-way, and to minimize the disruption and inconvenience to the traveling public. Conditions may include the requirement that an outside consultant be hired with the consultant's compensation to be paid for by the applicant.
- (b) When an excavation permit is requested for purposes of installing additional facilities and the performance and maintenance bond for additional facilities is reasonably determined to be insufficient, the posting of an additional or larger performance and maintenance bond for the additional facilities may be required.
- (c) A ROW user shall perform all work in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the state, and the rules and regulations of the commission or any other local, state, or federal agency having jurisdiction over the parties. A ROW user shall perform all work in conformance with all applicable codes and established rules and

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regulations and shall be responsible for all work in the rights-of-way pursuant to its permit, regardless by whom the work is done by. Every permit issued shall be deemed to incorporate the requirements and terms of this chapter, and all applicable ordinances, to the extent permitted by law.

- (d) Except in cases of an emergency or with the approval of the director of public works, no rights-of-way work may be done when conditions are unreasonable for such work.
- (e) A ROW user shall not disrupt a rights-of-way such that the natural free and clear passage of water through the gutters or other waterways is interfered with. Private vehicles may not be parked within or next to the permit area.
- (f) If work is being done for the ROW user by another person, a subcontractor or otherwise, the person doing the work and the ROW user shall be liable and responsible for all damages, obligations, and warranties herein described, including ensuring that the excavation or facilities maintenance of said person is performed consistent with its permit and applicable law (including that the contractor shall be properly licensed under the State of Missouri and local ordinances) and shall be responsible for promptly correcting acts or omissions by said person.
- (g) The ROW user shall not at any one time excavate or encumber more of the rights-of-way than shall be reasonably necessary to enable the ROW user to complete the project in the most expeditious manner.
- (h) The ROW user shall, in the performance of any work required for the installation, repair, maintenance, relocation, and/or removal of any of its facilities, limit all excavations to those that are necessary for efficient operation.
- (i) The permittee shall not permit such an excavation to remain open longer than is necessary to complete the repair or installation.
- (j) Non-emergency work on arterial and collector streets may not be performed between the hours of 7:00 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m., in order to minimize disruption of traffic flow. The permittee shall perform work on the rights-of-way at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood. At no time shall traffic be restricted to less than two lanes on arterial streets.
- (k) The ROW user excavating in the rights-of-way shall cause the excavation to be done with the least possible injury to the pavement, sidewalk, curbing, parkway, or other surface and shall place the materials from the excavation where they will cause the least possible inconvenience to the public and permit the uninterrupted passage of water along the gutters.
- (l) Before new excavation or construction is commenced and until sodding, planting, concreting, paving, or other final surfacing is in place, which will avoid washing or spreading of dirt and mud onto other property, sidewalks, curbs, gutters, streets, and the rights-of-way, the ROW user shall erect and maintain approved temporary erosion control measures to prevent such washing or spreading of materials. At the end of each day and as required throughout the day during the course of excavating or construction, dirt and mud on the sidewalks, curbs, gutters, streets, and the rights-of-way resulting from work must be removed.
- (m) Upon completion of the ROW work involving installation of new facilities, the ROW user shall supply the city copies of as-built and detailed maps showing the exact location of facilities installed in the ROW.
- (n) The director of public works may limit the number or size of conduits or other facilities that may be installed by each ROW user based on the reasonable needs to ensure that no one ROW user may unreasonably consume a disproportionate amount of the available rights-of-way to deter competition or deprive the public or others of the reasonable use of the rights-of-way.
- (o) The director of public works may impose other reasonable conditions regarding the timing, safety precautions, space, or specific implementation of the specific work proposed.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.350. Permit non-transferable.

Issued permits are not transferable without the written consent of the director of public works.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.360. Permit validity.

- (a) A permit shall only be valid for the area of the rights-of-way specified within the permit. No permittee may cause any work to be done outside the area specified in the permit, except as provided herein. Any permittee who determines that an area greater than that which is specified in the permit must be excavated must do the following prior to the commencement of work in that greater area: (a) make application for a new permit or a permit extension and pay any additional fees required thereby; and (b) receive a new rights-of-way permit or permit extension.
- (b) A permit shall be valid only for the dates specified in the permit. No permittee may commence work before the permit start date or, except as provided herein, may continue working after the end date. If a permittee does not complete the work by the permit end date, the permittee must apply for and receive a new rights-of-way permit or a permit extension for additional time. This supplementary application must be submitted to the city three days prior to the permit end date. Failure to apply for a permit extension may result in an immediate order to cease work within the rights-of-way until a new permit application has been filed and appropriate fees paid. One extension may be granted at no additional cost.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.370. Inspection.

- (a) In addition to the required scheduled inspections, the director of public works may choose to inspect the ongoing permitted work in the rights-of-way at any time to ensure that all requirements of the approved permit and ordinances of the city are being complied with by the ROW user.
- (b) At the time of any inspection, the director of public works may order the immediate cessation of any work, which poses a serious threat to the life, health, safety, or well-being of the public. The director of public works may issue a notice of noncompliance to the ROW user for any work, which does not conform to the applicable standards, conditions, code, or terms of the permit or this chapter. The notice shall state that the failure to correct the violation will be cause for revocation of the permit.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.380. Permit displayed.

Permits issued shall be conspicuously displayed by the permittee at all times at the indicated work site and shall be available for inspection by the director of public works, other city employees, and the public.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.390. Completed work.

The permittee shall notify the office of the director of public works upon completion of the authorized work permit.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.400. Permit denial.

- (a) The director of public works has discretion to deny a permit to protect the public health, safety, and welfare, to prevent interference with the safety and convenience or ordinary travel over the rights-of-way, or when necessary to protect the rights-of-way and its users. In exercising this discretion, the director of public works shall be guided by the safety and convenience of anticipated travel of the public over the rights-of-way and the public benefits offered by the ROW user and may consider one or more of the following factors in denial of the permit:
 - (1) The applicant fails to provide all necessary information requested by the city for managing the public right-of-way;
 - (2) The applicant has failed to return the right-of-way to its previous condition under a previous permit;
 - (3) The director has provided the applicant with a reasonable, competitively neutral, and nondiscriminatory justification for requiring an alternative method for performing the work identified in the permit application or a reasonable alternative route that will result in neither additional installation expense up to ten percent to the applicant nor a declination of service quality;
 - (4) The director determines that denial is necessary to protect the public health and safety, provided that such does not extend to those items under the jurisdiction of the commission, such denial shall not interfere with a public utility's right of eminent domain of private property, and such denial shall only be imposed on a competitively neutral and nondiscriminatory basis;
 - (5) The area is environmentally sensitive as defined by state statute or federal law or is historic district as defined by city ordinance;
 - (6) Such other lawful reasons.
- (b) Notwithstanding the above provisions, the director of public works may issue a permit in any case where the permit is necessary to:
 - (1) Prevent substantial economic hardship to a user of the applicant's service; or
 - (2) Allow such user to materially improve the service provided by the applicant.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.410. Permit exemptions.

The following are exempt from the requirements of a rights-of-way permit for work in the rights-of-way:

- (1) ROW users performing routine service operations that do not require excavation in the rights-of-way and do not disrupt traffic.
- (2) Adjacent property owners, provided the work does not involve excavation more than 18 inches below the surface and all existing facilities are identified according to this chapter and state law. However,

this exception applies to excavation only. Any construction activity or permanent structures in the rights-of-way will require any applicable permits and authorizations.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.420. Emergency work.

A permit is required for emergency situations. If due to an emergency, it is necessary for the ROW user to immediately perform work in the rights-of-way, and it is impractical for the ROW user to first get the appropriate permit, the work may be performed, and the required permit shall be obtained as soon as possible during the next city working day, or as otherwise directed by the director of public works. In the event the city becomes aware of an emergency requiring facilities work, the city shall attempt to contact a representative of each ROW user affected, or potentially affected, by the emergency work. If no response is received by a particular ROW user to whom contact is attempted, the director of public works may take whatever action he/she deems necessary to respond to the emergency, the cost of which shall be borne by the person whose action or inaction occasioned the emergency or by the ROW user if the emergency was occasioned by an act of nature.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Division III. Rights-of-way Use and Facility Locations.

Sec. 6.115.510. Use of rights-of-way and locations generally.

- (a) The ROW-user's use of the rights-of-way shall in all matters be subordinate to the city's use or occupation of the rights-of-way. Without limitations of its rights, the city expressly reserves the rights to exercise its governmental powers now and hereafter vested in or granted to the city. In situations where multiple users are within the same location, first the municipal use shall have priority followed by persons with a valid and current rights-of-way use agreement, franchise, license, or other authorization with the city, followed by all others. All ROW users shall construct and maintain their facilities so as not to interfere with other users of the rights-of-way.
- (b) ROW-users shall coordinate the placement of facilities in a manner that minimizes adverse impact on any public improvement, as reasonably determined by the city. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvements as defined in the city's design and construction manual. The design, location, and nature of all facilities shall be subject to the review and approval of the director of public works. Such review shall be on a non-discriminatory basis in application of city policy including ensuring safe, efficient, and appropriate use of the ROW consistent with this chapter and applicable law, and approvals shall not be unreasonably withheld. City height limitations, applicable zoning restrictions, and general city policies with regard to all users of the ROW shall also be applicable to all facilities. For facility applications, the most restrictive adjacent underlying zoning district classification shall apply unless otherwise zoned and designated on the official zoning map.
- (c) No equipment or facilities that exceed 30 inches in height above ground level, except utility poles, shall be placed within the sight distance areas of intersections as determined under the city's sight distance standards and the most current edition of the Manual of the American Association of State Highway and Transportation Officials. Appropriate sight distances for such equipment or facilities related to driveways, alleys, or other entrances onto streets other than at intersections, shall be determined on a case-by-case basis by the director of public works, in order to provide reasonably safe locations for such equipment or facilities.

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- (d) The ROW-user shall consider any request made by the city concerning placement facilities in private easements in order to limit or eliminate future street improvement relocation expenses.
 - (e) All facilities shall be located and laid so as not to disrupt, adversely impact, or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of the streets, alleys, sidewalks, or other public lands of the city.
 - (f) All facilities of the ROW-user shall be placed so that they do not interfere with the use of rights-of-way and public lands, either existing or proposed. The city, through its director of public works, shall have the right to consult and review the location, design, and nature of the facility prior to installation. The city may, in its discretion, designate certain locations or facilities in the rights-of-way to be excluded from use by the ROW user, including, but not limited to, ornamental or similar specially-designed street lights or other facilities or locations which, in the reasonable judgment of the director of public works, do not have electrical service adequate or appropriate for the provider's facilities, or cannot safely bear the weight or wind loading thereof, or any other facility or location that in the reasonable judgment of the director of public works is incompatible with the proposed facilities, or would be rendered unsafe or unstable by the installation. To ensure that the right-of-way remains accessible for public uses, to minimize visual obtrusive of facilities, and allow for adequate city maintenance of the right-of-way, a new utility pole and any new ground mounted equipment associated with the new utility pole shall not be installed within 150 feet of another utility pole or other ground mounted equipment on the same side of the right-of-way. Should a ROW-user seek to replace a utility pole, said replacement utility pole shall be sited within ten feet of the currently, existing utility pole and shall not be subject to the spacing requirements set forth in this subsection. The spacing requirement set forth in this subsection may be waived or altered by the city-engineer upon the ROW-user establishing good cause as to why said spacing requirement shall be waived or altered.
 - (g) The ROW-user shall not interfere with the facilities of other ROW-users without their permission. If and when the city requires or negotiates to have a ROW-user cease using its existing poles and to relocate its facilities underground, all other ROW-users using the same poles shall also relocate their facilities underground at the same time. The cost of such relocations shall be borne in accordance with this chapter and the applicable tariff governing that ROW-user.
 - (h) All facilities and other appurtenances laid, constructed, and maintained by the ROW user shall be laid, constructed, and maintained in accordance with acceptable engineering practice and in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the state, as well as the rules and regulations of the commission or any other local, state, or federal agency jurisdiction over the parties.
 - (i) The ROW-user shall cooperate promptly and fully with the city and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and location of its facilities within the rights-of-way, both underground and overhead, when requested by the city or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the city, its employees, agents, or authorized contractors.
 - (j) It shall be the responsibility of the ROW-user to take adequate measures to protect and defend its facilities in the rights-of-way from harm and damage.
 - (k) The city shall have the power to prohibit or limit the placement of new or additional equipment or facilities within the right-of-way if there is insufficient space to accommodate all of the request of potential ROW users. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, public health and safety, the public's priority needs for the particular utility service, the condition of the right-of-way, the time of the year with respect to essential utilities, the protection of existing equipment in

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the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

- (l) All new facilities or structures shall collocate on existing poles or within existing conduit, trenches, or other facilities to minimize unnecessary use of right-of-way space, reduce potential existing or future interference and obstructions and to reduce the cost to the public or others therefrom, and to maximize the public's ability to use and license appropriate private or public uses of the public rights-of-way in the public interest (except where preempted by law or where good cause is established as determined by the city applying these objectives.) Where existing poles or facilities are available, or exist at or near the proposed use, unless otherwise approved, the applicant must either use such facilities or file a written request verified by the applicant for exception specifying the specific reasons why such facilities are not available or feasible to be used and addressing the objectives hereof.
- (m) ROW users may be required prior to any excavation or installation within the rights-of-way, to provide sufficient notification and joint installation opportunities on a shared cost basis to potential users of the rights-of-way as may be provided for by separate city policy. Such notifications and adopted policies shall be designed to maximize collocation of ROW users, to minimize the disturbance of the rights-of-way and to maximize usable capacity.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018; Ord. No. 4.463, § 2, 2-25-2019)

Sec. 6.115.520. Above-ground facilities.

- (a) All new facilities may be located above-ground only if approved by the city council for good cause. Unless extraordinary circumstances exist, good cause shall not include authorization for above-ground facilities requiring new poles or major modification to existing above-ground structures. Above-ground pedestals, vaults, cabinets, or other facilities may be installed only if approved by the city where alternative underground facilities are not feasible or where underground requirements are otherwise waived pursuant to the provisions of this subsection. Existing conduit shall be used where feasible and available. Where reasonable and appropriate and where adequate rights-of-way exists, the ROW user shall place above-ground facilities underground in conjunction with city capital improvement projects and/or at specific locations requested by the city provided that such placement is practical, efficient, and economically feasible. This prohibition shall not include replacement poles that are of similar dimension of the existing pole.
- (b) No equipment, equipment boxes, or other facilities (including transformer boxes, telephone risers, junction boxes, or equipment boxes), shall be placed in the rights-of-way that exceed 66 inches in height above ground level, or 20 square feet in surface. Such equipment and facilities are to be located only within the width of utility easements that exist alongside property lines between adjacent properties, and subject to the sight line restrictions of section 6.115.510 of this chapter. The city reserves the right to modify proposed locations of such equipment and facilities if the location identified by the applicant is deemed to create a safety hazard or to adversely affect the property value of the premises where the equipment or facilities are to be located.
- (c) If more than one equipment box or other facility is to be erected under any one application for a city construction permit, all equipment locations for such a project shall be clearly identified in drawings accompanying the application, and the impact of the entire system on the safety or property values in the areas affected shall be evaluated by the city, and the city shall have the right to impose alternative locations for such equipment prior to issuing a construction permit.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.530. Underground facilities.

All facilities shall be located underground whenever possible as provided herein. The ROW user shall comply with all city requirements as well as any utility commission regulations it must adhere to. If this requirement is waived as provided herein, the facility shall be located as determined by the director of public works, including but not limited to any requirements placed on the ROW user by the commission. Specific locations where facilities will be required to be underground may be identified in the city's technical specifications and standard drawings.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.540. Facility corridors.

- (a) The director of public works may assign specific corridors within the rights-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the director of public works expects will someday be located within the rights-of-way. All rights-of-way permits issued by the director of public works shall indicate the proper corridor for the ROW user's facilities. Any such corridor shall be specified in the city's technical specifications and standards.
- (b) Any ROW user whose facilities are currently in the rights-of-way in a position at a variance with the designated corridors shall, no later than at the time of the next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the rights-of-way, unless this agreement is waived by the director of public works for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, user service needs, and hardship to the ROW user.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.550. Conduits.

If, in the preparation and planning of a rights-of-way project, the director of public works deems it appropriate for a conduit to be constructed in the rights-of-way, the director of public works shall contact all appropriate ROW-users for their input on the planning and design of such conduit. If a ROW-user desires to construct, maintain, or operate facilities along such rights-of-way, the director of public works may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user's use of the conduit is reasonable and appropriate under the circumstances.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.560. Coordination.

- (a) Applicants may apply jointly for permits to excavate within the rights-of-way at the same time and place. Applicants who apply jointly for a rights-of-way permit may share in the payment of the permit fee. Applicants must agree among themselves as to the portion each shall pay.
- (b) The ROW user shall participate in any joint planning, construction, and advance notification of work, including coordination and consolidation of excavation work as required by the director of public works. In addition, the ROW user shall cooperate with other ROW users and the city for the best, most efficient, most aesthetic, and least obtrusive use of the rights-of-way.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.570. Facility relocation.

- (a) The ROW user shall promptly remove, relocate, or adjust, at its own cost and expense, any facilities located within the rights-of-way as directed by the city for a public improvement or when reasonably required by the city by reason of public safety when such is required by public necessity, or public convenience and security require it, or such other findings in the public interest that may require relocation, adjustment, or removal at the cost of the ROW user. Such removal, relocation, or adjustment shall be performed by the ROW user at the ROW user's sole expense without expense to the city, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations, and schedules of the city pertaining to such. ROW users shall proceed with relocations at due diligence upon notification by the city to begin relocation.
- (b) The ROW user shall promptly remove, relocate, or adjust any facilities located in private easement subject to the following:
 - (1) The relocation is required as provided herein;
 - (2) The city has condemned or the ROW user has disclaimed to the city the portion of the private easement necessary for the public improvement; and
 - (3) The ROW user shall relocate the facilities into the expanded rights-of-way at the city's direction or into any remaining portion of the private easement not condemned by or disclaimed to the city.
- (c) As soon as working drawings are available for public improvements that will require the ROW user to relocate its facilities, the city shall provide the ROW user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW user shall respond with any conflicts and a proposed construction schedule within 30 days.
- (d) Following notice by the city in the form of the delivery of final design plans for such public improvements, the ROW user shall remove, adjust, or relocate its facilities in accordance with the schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW user. ROW user shall certify to the city, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the city.
- (e) Any damages suffered by the city, its agents, or its contractors to the extent caused by the ROW user's failure to timely relocate or adjust such facilities, based on the schedule, shall be borne by the ROW user. Damages may include but be limited to:
 - (1) Delays to contractor causing increased labor costs or reduced productivity.
 - (2) Delays to contractor causing demobilization and remobilization.
 - (3) Delays to city causing increased inspection time.
 - (4) Delays to residents or motorists causing increased travel costs, inconvenience, or damages.
- (f) In the event the ROW user is required to move its facilities in accordance with this section, a rights-of-way permit will be required however the permit fee shall be waived.
- (g) In the event of an emergency or where construction equipment or facilities create or are contributing to an imminent danger to health, safety, or property, the city may, to the extent allowed by law, remove, re-lay, or relocate such construction equipment or the pertinent parts of such facilities without charge to the city for such action or for restoration or repair. The city shall attempt to notify the person having facilities in the ROW prior to taking such action, but the inability to do so shall not prevent same. Thereafter, the city shall notify the person having facilities in the ROW as soon as practicable.

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- (h) It is the intent of this section for both the city and the ROW user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipts of bids by the city for such public improvement.
 - (i) Rather than relocate facilities as requested or directed, a ROW user may abandon the facilities if approved by the city as provided in section 6.115.580.
 - (j) No action hereunder shall be deemed a taking of property and no person shall be entitled to any compensation therefor. No location of any facilities in the rights-of-way shall be a vested interest or property right.
 - (k) The ROW user shall upon request of any other person requesting relocation of facilities and holding a validly issued building or moving permit of the city, and within a reasonable period of time prior to the date upon which said person intends to exercise its rights under said permit, thereupon temporarily raise, lower, or relocate its wires or other facilities as may be required for the person to exercise the rights under the permit, and the ROW user may require such person to make payment in advance for any expenses incurred by said ROW user pursuant to said person's request.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.580. Unused and abandoned facilities.

- (a) A ROW user owning abandoned facilities in the rights-of-way must either:
 - (1) Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The director of public works may allow underground facilities or portions thereof to remain in place if the director of public works determines that it is in the best interest of public safety to do so. At such time, the city may take ownership and responsibility of such abandoned facilities left in place;
 - (2) Provide information satisfactory to the city that the ROW user's obligations for its facilities in the rights-of-way have been lawfully assumed by another authorized ROW user; or
 - (3) Submit to the city a proposal and instruments for transferring ownership of its facilities to the city. If the ROW user proceeds under this sub-section, the city may, at its option purchase the equipment, require the ROW user, at its own expense, to remove it, or require the ROW user to post a bond in an amount sufficient to reimburse the city for reasonable anticipated costs to be incurred to remove the facilities.
- (b) Facilities of a ROW user who fails to comply with this section, and whose facilities remain unused for two years, shall be deemed to be abandoned after the city has made a good faith effort to contact the ROW user, unless the city receives confirmation that the ROW user intends to use the facilities. Abandoned facilities are 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, (a) abating the nuisance, (b) taking possession and ownership of the facility and restoring it to a useable function, or (c) requiring the removal of the facility by the ROW user.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.590. Vacation of rights-of-way.

- (a) If the city vacates a rights-of-way which contains facilities of a ROW user, and if the vacation does not require the relocation of the ROW user's facilities, the city shall reserve, to and for itself and all ROW users having facilities in the vacated rights-of-way, an easement for the rights to install, maintain, and operate any

facilities in the vacated rights-of-way and to enter upon such vacated rights-of-way at any time for the purpose of reconstructing, inspecting, maintaining, or repairing the same.

- (b) If the vacation requires the relocation of facilities, and
- (1) If the vacation proceedings are initiated by a ROW user, the ROW user must pay the relocation costs.
 - (2) If the vacation proceedings are initiated by the city, and the city provides expanded rights-of-way or public easement in which to relocate the ROW user's facilities, the ROW user must pay the relocation costs unless otherwise agreed to by the city and the ROW user.
 - (3) If the vacation proceedings are initiated by the city and the city does not provide expanded rights-of-way or public easement in which to relocate the ROW users facilities or the vacation is not needed due to public necessity, or public convenience and security require it, or such other findings in the public interest that may require relocation, adjustment, or removal at the cost of the ROW user, the city shall pay the relocation costs unless otherwise agreed to by the city and the ROW user.
 - (4) If the vacation proceedings are initiated by a person other than the ROW user or the city, such other person must pay the relocation costs.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Division IV. Traffic Control and Street Closures.

Sec. 6.115.660. Traffic control.

Any ROW user found to be working without providing for required safety and traffic control will be directed to stop work until the appropriate measures are implemented in accordance with the current edition of the Manual on Uniform Traffic Control Devices. The permit information shall include contact names, and phone numbers, for those responsible for traffic control that may be reached 24 hours a day to resolve problems with the work zone.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.670. Notice of closure.

The ROW user shall notify the city not less than ten working days in advance of any construction, reconstruction, repair, location, or relocation of facilities which would require any street closure or five working days in advance of any construction, reconstruction, repair, location, or relocation of facilities which reduces traffic flow to less than two lanes of moving traffic for more than four hours. Any other person doing work that will disrupt vehicular or pedestrian traffic shall notify the city not less than one day in advance of any work. The ~~department of public safety~~ police department shall also be notified the day of the work. Except in the event of an emergency defined herein, no such closure shall take place without notice and prior authorization from the city.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.680. Signs and barricades required.

All work performed in the rights-of-way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at the permittee's expense. Such excavations and barricades shall be lighted at night with danger signals in such a manner that all traffic may be warned of the existence and

location of such excavations and barricades. Such signage shall be in conformance with the latest edition of the Manual on Uniform Traffic Control Devices.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.690. Traffic control plan.

All safety and traffic control measures must be implemented according to an approved traffic control plan required by the permit.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Division V. Excavation Procedures.

Sec. 6.115.760. Location of existing facilities.

The ROW user shall provide, identify, and locate any underground facilities in conformance with the 'Missouri One Call' system, and notice shall be provided directly to the city's department of public works water and sanitary sewer divisions.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.770. ROW user liable for damages.

- (a) The ROW user shall be liable for any damages to facilities due to work prior to obtaining location of facilities, or for any damage to facilities that have been properly identified prior to excavation. The permittee shall not make or attempt to make repairs, relocation, or replacement of damaged or disturbed facilities without the approval of the owner of the facilities.
- (b) Whenever there is an excavation by the ROW user, the ROW user shall be responsible for providing adequate traffic control to the surrounding area determined by the director of public works. In the event the excavation is not completed in a reasonable period of time, the ROW user may be liable for actual damages to the city for delay caused by the ROW user pursuant to this chapter.
- (c) The ROW user, responsible for the excavation, who leaves any debris in the rights-of-way shall be responsible for providing safety protection in accordance with the latest edition of the Manual of Uniform Traffic Control Devices and any applicable federal or state requirements.
- (d) In the event the ROW user severely disturbs or damages the any tree or other landscaping in the rights-of-way to the detriment of the health and safety of the tree, the ROW user shall be required to remove and replace the tree at the ROW user's cost. Further, in review of the ROW user's plan, the director of public works, in his or her discretion, may require the ROW user to directionally bore around any tree in the rights-of-way. Replacement trees shall be a minimum two-inch caliper and bushes shall be a minimum two gallons. All areas damaged by excavation work shall be restored to as good, or better, condition as before the commencement of work.
- (e) The ROW user shall be liable for any damages to property outside of the public rights-of-way. The ROW user shall restore any damage to private property as a result of their activity including replacement of trees, which are severely disturbed, or damaged, as a result of their work within the rights-of-way. The granting of a permit for work within the rights-of-way does not authorize the permittee to work outside the rights-of-way.

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- (f) Tree trimming and landscape pruning may be permitted to occur only after prior written notice to the city of the extent of trimming and pruning to be performed and the prior written approval thereof by the director of public works. The type and extent of trimming and pruning shall be in accordance with the requirements of the city.
 - (g) The person doing the excavating or other ROW work under the requirements of this chapter shall immediately, after the work is completed and the refill is made, clean up and haul away all surplus earth, rock, debris, or other rubbish. The ROW user shall remove dirt from the wheels of all vehicles leaving any site where mud has accumulated on the wheels before such vehicles enter any public street of the city. It shall be unlawful for any ROW user to permit any vehicles to leave such place with mud on the wheels which is liable to be dispersed over any public street of the city and it shall be unlawful for any driver of a vehicle to enter upon the public streets of the city without having removed or had mud removed from the wheels prior to such entry. Each occurrence shall be a separate offense. The ROW user shall be responsible for damages to the city, or its contractors, resulting from such failure and shall indemnify the city and its contractors as provided herein and pay the costs for remedying such failure.
 - (h) The ROW user shall load materials on any vehicle so no portion thereof shall be spilled or be liable to be spilled on the streets of the city. It shall be unlawful for any ROW user to permit any vehicle to enter upon the streets of the city loaded in violation of this provision and it shall be unlawful for any person to operate a vehicle on the streets of the city which is loaded in such manner that it spills or is liable to spill mud, dirt, or other materials on the streets.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.780. Standard of work.

Any excavation, backfilling, repair, and restoration, and all other work performed in the rights-of-way shall be done in conformance with the city's technical specifications, standards, and applicable building codes.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.790. Excavation restoration.

- (a) After any excavation, the ROW user shall, at its expense, and in a timely manner or as set forth in the permit, restore all portions of the rights-of-way to the same condition or better condition than it was prior to the excavation thereof. This shall include the sodding, or seeding, of all established lawn areas as directed by the permit or the director with the same species of grass as that disturbed by the excavation.
- (b) The ROW user shall employ a testing laboratory, as approved by the director of public works, which shall verify the proper backfilling on any street cut. The ROW user shall pay all costs associated with such testing. This provision shall be waived when flowable fill is used as backfill or with the permission of the director of public works.
- (c) If an excavation cannot be backfilled immediately and must be left unattended, the ROW user shall securely and adequately cover any street cuts, or protect any unfilled grassed area excavation. The ROW user has sole responsibility for maintaining proper barricades, safety fencing, and/or lights as required, from the time of the opening of the excavation until the excavation is surfaced and open for travel.
- (d) In addition to repairing its own street cuts, the ROW user must restore any area within five feet of the new street cut that has previously been excavated, including the paving and its aggregate foundations.
- (e) All earth, materials, sidewalks, paving, crossings, utilities, public improvement, or improvements of any kind damaged or removed by the ROW user shall be fully repaired or replaced promptly by the ROW user at its

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sole expense and to the reasonable satisfaction of the city. However, a ROW user shall not make or attempt to make repairs, relocations, or replacement of damaged or disturbed facilities without the approval of the owner of the facilities. The ROW user shall notify the director upon completion of the excavation work authorized by the permit. The director of public works has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW user to do the additional necessary work. Notice of the unsatisfactory restoration and the deficiencies found will be provided to the ROW user and a reasonable time not to exceed ten calendar days will be provided to allow for the deficiencies to be corrected. Upon determination by the director of public works that such repair or replacement is a public safety matter, all such repair or replacement shall be corrected within 24 hours' notice from the city, or the director of public works may direct the city to make such repair or replacement and bill the ROW user for the city's costs.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.800. Failure to restore.

If the ROW user fails to restore the rights-of-way in the manner and to the condition required by the director of public works, or fails to satisfactorily and timely complete all restoration the city may, at its option, serve written notice upon the ROW user and its surety that, unless within five days after serving of such notice, a satisfactory arrangement can be made for the proper restoration of the rights-of-way, the city shall immediately serve notice of failure to comply upon the surety and the ROW user, and the surety shall have the right to take over and complete the work; provided, however, that if the surety does not commence performance within ten days from the date of notice, the city may take over the work and prosecute same to completion, by contract or otherwise at the expense of the ROW user, and the ROW user and its surety shall be liable to the city for any and all excess cost assumed by the city by reason of such prosecution and completion.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.810. Guarantee of restoration.

- (a) In restoring the rights-of-way, the ROW user guarantees its work and shall maintain it for four years following its completion. During the four years the ROW user shall, upon notification from the director of public works, correct all restoration work to the extent necessary, using any method as required by the director of public works. Said work shall be completed within a reasonable time, not to exceed 15 calendar days, of the receipt of notice from the director of public works. In the event the ROW user is required to perform new restoration pursuant to the foregoing guarantee, the director of public works shall have the authority to extend the guarantee period for such new restoration for up to an additional four years from the date of the new restoration, if the director of public works determines any overt action by the ROW user not to comply with the conditions of the rights-of-way permit and any restoration requirements or otherwise reasonably necessary to fulfill the requirements of this chapter.
- (b) When any corrective action has been completed and inspected by the director of public works' satisfaction, the four-year maintenance period will begin.
- (c) The four-year guarantee period shall be applicable to failure of the pavement surface as well as failure below the pavement surface. Settlement of the excavation or cracking, breaking, or rutting of the surface shall be prima facie evidence of failure of the backfill.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.820. Restoration marker.

All excavations by the ROW user shall have a metal marker inserted into the excavation of the restored pavement, which shall identify the ROW user.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.830. Notice and inspection.

Upon completion of all rights-of-way restoration activities, the ROW user shall notify the public works department to schedule a closeout inspection.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Division VI. Mapping Requirements**Sec. 6.115.910—6.115.1009. Reserved.****Division VII. Appeals or Waivers****Sec. 6.115.1010. Waivers.**

The director of public works shall have the authority to grant waivers as provided in this chapter. To be effective, any such waiver shall be evidenced by a statement in writing by the ROW user, indicating the reasons for the waiver request, the authority for the waiver under this chapter, and any conditions of the waiver. The statement must be signed by the director of public works to be valid.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.1020. Appeals.

Whenever a person shall deem themselves aggrieved by a decision or action taken by the director of public works, the person may file an appeal to the city manager within ten calendar days of the date of the notice of such decision or action.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.1030. Actions on appeal to the city manager.

- (a) In cases of applicability or interpretation of the rules, the city manager may revoke such decision or action taken by the director of public works.
- (b) In cases where compliance with such decision or action taken by the director of public works would cause undue hardship, the city manager may extend the time limit of such decision or action, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of rules. The city manager shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public rights-of-way.

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- (c) Pending a decision by the city manager, the order of the director of public works shall be stayed, unless the director of public works determines that such action will pose a threat to public safety or the integrity of the public infrastructure.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

ARTICLE 4. INSURANCE, BONDING, AND LIABILITY

Sec. 6.115.1110. Insurance.

Prior to any work, the ROW user shall furnish to the city a certificate of insurance in a company approved by the enforcement agency or the city, evidencing that such applicant has a comprehensive general liability and property damage insurance that includes contractual liability coverage with minimum limits in no event less than the maximum amounts of liability set forth in RSMo 537.610 applicable to political subdivisions. The policies of insurance shall be in such form and shall be issued by such company or companies as may be satisfactory to the city. The city, and such additional persons and entities as may be deemed to have exposure to liability as a result of the performance of the work, as determined by the city, shall be named as additional insured with full and equivalent coverage as the insured and with the duty of defense on all insurance policies required hereunder. A certificate of insurance providing compliance with this section shall be submitted to the city and shall include a provision that the insurance coverage cannot be cancelled or not renewed without 30 days advance written notice to the city. If the person is self-insured, it shall provide the city proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts. Any self-insurance or deductible above \$50,000.00 must be declared to and pre-approved by the city. The insurance requirements in this section or otherwise shall not apply to any entity to the extent and for such period during an agreement, franchise, or permit issued hereunder if such entity is exempted from such requirements pursuant to RSMo 67.1830(6)(a) and has on file with the city clerk an affidavit certifying that the entity has \$25,000,000.00 in net assets and facts otherwise establishing the ROW user is otherwise therefore so exempted unless otherwise provided by agreement or franchise. The city reserves the right to waive any and all requirements under this section when deemed to be in the public interest. Nothing herein shall be deemed to waive the city's sovereign immunity.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.1120. Bonding.

Prior to any work, and for four years thereafter, maintain a performance and maintenance bond in a form approved by the city counselor. The amount of the bond will be \$5,000.00 or the value of the restoration, whichever is the greater, for a term consistent with the term of the permit plus four additional years, conditioned upon the ROW user's faithful performance of the provisions, terms and conditions conferred by this chapter. An annual bond in the amount of \$50,000.00 automatically renewed yearly during the period shall satisfy the requirements of this section. In the event the city shall exercise its rights to revoke the permit as granted herein, then the city shall be entitled to recover under the terms of said bond, the full amount of any loss occasioned. ROW user submitting bonds shall comply with the following requirements:

- (1) A copy of the maintenance and performance bond must be on file with the city clerk.
- (2) No maintenance or performance bond will be required of any governmental entity or of any residential property owner working in the rights-of-way adjacent to his/her residence, who does not utilize a contractor to perform the excavation. The bond requirement herein shall not apply to an applicant who has on file with the city clerk an affidavit certifying that the applicant has \$25,000,000.00 in net

assets and facts demonstrating that the ROW user does not have a history of permitting noncompliance within the city.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.1130. Indemnification.

Any person performing excavation or a ROW user as a condition of use of the ROW, shall at its sole cost and expense fully indemnify, release, defend (with counsel acceptable to the city), and hold harmless the city, agents of the city when acting in their capacity as municipal officials, employees, and agents, from and against any and all claims, demands, suits, proceedings and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees, from the action or inaction of the person performing excavation or ROW user, its agents, representatives, employees, contractors, subcontractors, or any other person for whose acts the ROW user may be liable, in constructing, operating, maintaining, repairing, restoring, or removing facilities or other structure, or use of the rights-of-way or the activities performed, or failed to be performed, by the ROW user under this chapter or applicable law, or otherwise, except to the extent arising from or caused by the sole or gross negligence or willful misconduct of the city, its elected officials, officers, employees, agents, or contractors. Nothing herein shall be deemed to prevent the city, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve the person from his duty to defend against liability or his duty to pay any judgment entered against the city or its agents. This indemnification shall survive the expiration or termination of any ROW use agreement, franchise, license, permit, or other authorization.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

ARTICLE 5. VIOLATIONS AND PENALTIES

Sec. 6.115.1210. Violation.

- (a) If the director of public works determines that the ROW user has committed a violation of any law or condition placed on the rights-of-way permit, the director of public works shall make a written demand upon the ROW user to remedy such violation. The demand shall state that the continued violation may be cause for revocation of the permit or legal action if applicable.
- (b) A violation will allow the director of public works, at his discretion, to place additional conditions on the rights-of-way permit, specifically related to the manner in which the violation is cured by the ROW user. Within five calendar days of receiving notification of the violation, ROW user shall contact the director of public works with a plan for correction of the violation. ROW user's failure to contact the director of public works, ROW user's failure to submit an acceptable plan, or ROW user's failure to reasonably implement the approved plan shall be cause for immediate revocation of the rights-of-way permit and/or issue a stop work order.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.1220. Revocation.

- (a) Permittees hold rights-of-way permits issued pursuant to this chapter as a privilege and not as a right. The city reserves its rights, as provided herein, to revoke any rights-of-way permits, without refund of the permit fee, in accordance with this chapter or in the event of a substantial breach of the terms and conditions of any law or the rights-of-way permit. A substantial breach shall include, but not limited to the following:

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- (1) The violation of any material provision of the rights-of-way permit;
 - (2) An evasion or attempt to evade any material provision of the rights-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
 - (3) Any material misrepresentation of any fact in the permit application;
 - (4) The failure to complete the work by the date specified in the permit, unless a permit extension is obtained or unless the failure to complete the work is due to reasons beyond the permittee's control;
 - (5) The failure to correct within the time specified by the city, work that does not conform to applicable national safety codes, industry construction standards, or local safety codes that are no more stringent than national safety codes, upon inspection and notification by the city of the faulty condition; and
 - (6) Such other lawful reasons.
- (b) If a rights-of-way permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including administrative costs, restoration costs, and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.1230. Penalty.

Any person or entity violating any provision of this chapter is guilty of a public offense, and upon conviction thereof shall be fined in a sum of not less than \$200.00 nor more than \$500.00. Every day that this chapter is violated shall constitute a separate offense. The city shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this chapter. In addition to any other remedies, the city may institute injunction, mandamus, or other appropriate action or proceeding to prevent violation of this chapter.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

ARTICLE 6. OTHER RIGHTS AND LAWS

Sec. 6.115.1310. Force majeure.

Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war, and other circumstances beyond the ROW user's or the city's control.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.1315. No cause of action against the city.

A ROW user shall have no damages remedy or monetary recourse whatsoever against the city for any loss, cost, expense, or damage arising from any of the provisions or requirements of any ROW use agreement or franchise, or because of the enforcement thereof by said city, or from the use of the rights-of-way. Nothing herein shall preclude the ROW user from seeking injunctive or declaratory judgment relief against the city where such relief is otherwise available and the requirements therefor are otherwise satisfied.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.1320. Federal, state, and city jurisdiction.

This chapter shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this chapter to the contrary, the construction, operation, and maintenance of the ROW user's facilities shall be in accordance with all laws and regulations of the United States, the state, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, the ROW user shall meet or exceed the most stringent technical standards, as long as those standards are not inconsistent, set by regulatory bodies, including the city, now or hereafter having jurisdiction. The ROW user'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. The ROW user shall comply with all applicable laws and ordinances enacted pursuant to that power. Finally, failure of the ROW user to comply with any applicable law or regulation may result in a forfeiture of any permit, registration, or authorization granted in accordance with this chapter.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.1330. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.1340. City's failure to enforce.

The city's failure to enforce or remedy any noncompliance of the terms and conditions of this chapter or of any permit or agreement granted hereunder shall not constitute a waiver of the city's rights nor a waiver of any person's obligation as herein provided.

(Ord. No. 4.435 , § 2(Exh. A), 6-14-2018)

Sec. 6.115.1350. Reservation of rights.

- (a) In addition to any rights specifically reserved to the city by this chapter, the city reserves unto itself every right and power which is required to be reserved by a provision of any ordinance under any registration, permit, or other authorization granted under this chapter. The city shall have the right to waive any provision of this chapter or any registration, permit, or other authorization granted thereunder, except those required by federal or state law, if the city determines as follows:
 - (1) That it is in the public interest to do so; and
 - (2) That the enforcement of such provision will impose an undue hardship on the person.
- (b) To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the city. Further, the city hereby reserves to itself the right to intervene in any suit, action, or proceeding involving the provisions herein.
- (c) Notwithstanding anything to the contrary set forth herein, the provisions of this chapter shall not infringe upon the rights of any person pursuant to any applicable state or federal statutes, including, but not limited to the right to occupy the rights-of-way.

ARTICLE 7. SMALL WIRELESS FACILITIES

Sec. 6.115.1400. Intent, preemption, and sunset.

- (a) *Purpose.* Consistent with the requirements of the Uniform Small Wireless Facility Deployment Act, RSMo 67.5110, et seq., and in anticipation of a continued increased demand for the placement of small wireless facilities of the type regulated by the Uniform Small Wireless Facility Deployment Act and this article both within the public rights-of-way and in other locations within the jurisdiction of the city, the city council of the City of Gladstone, Missouri, has found it to be in the best interests of the public health, safety, and general welfare of the city to adopt the regulations set forth in this article in order to establish generally applicable standards for the permitting, location, construction, deployment, regulation, operation, maintenance, repair, concealment and removal of small wireless facilities both within the public rights-of-way and in other locations within the jurisdiction of the city.
- (b) *Intent.* Sections 6.115.1400 through 6.115.1405 of the Code of Ordinances, City of Gladstone, Missouri is intended to encourage and streamline the deployment of small wireless facilities, as herein defined, to help ensure that robust and dependable wireless radio-based communication services and networks are available throughout the City of Gladstone while also protecting the health, safety, and welfare of the public and the limited public resource that is the public right-of-way. Specifically, the article is intended to:
- (1) Facilitate orderly construction and maintenance of facilities in the right-of-way, reduce the damage to the facilities of rights-of-way users, and minimize disruption of service to the citizens of the city;
 - (2) Manage the right-of-way to allow efficient location of small wireless facilities and maximize services to the citizens of the city;
 - (3) Allow for the maximum utilization of the rights-of-way to meet the demands due to technical innovations.
 - (4) Encourage responsible construction and maintenance practices in the city rights-of-way.
 - (5) Ensure that regulation of small wireless facilities does not have the effect of prohibiting the provision of personal wireless services, and does not unreasonably discriminate among functionally equivalent providers of such service;
 - (6) Prevent interference with the facilities, maintenance, and operations of the city's utilities and of other utilities lawfully located both within the public rights-of-way and in other locations within the city; and
 - (7) Enhance the ability of providers of communication services to provide such services to the community quickly, effectively, and efficiently.
- (c) *Preemption.* Notwithstanding any ordinance to the contrary, the procedures set forth in this article shall be applicable to small wireless facilities existing or installed, built or modified after the effective date of this article to the fullest extent permitted by law. No provision of this article shall apply to any circumstances in which such application shall be unlawful under superseding federal or state law. Furthermore, if any section, subsection, sentence, clause, phrase, or portion of this article is now or in the future superseded or preempted by state or federal law or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.
- (d) *Sunset.* This article shall expire on January 1, 2021, except that for small wireless facilities already permitted or collocated on authority poles prior to such date, the rate set forth in section 6.115.1403(g) for collocation

of small wireless facilities on authority poles shall remain effective for the duration of the permit authorizing the collocation.

(Ord. No. 4.463, § 3, 2-25-2019)

Sec. 6.115.1401. Definitions.

As used in this article, the following terms shall have the following meanings:

Act means the Uniform Small Wireless Facility Deployment Act, RSMo 67.5110, et seq.;

Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services;

Applicable codes means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to such codes enacted to prevent physical property damage or reasonably foreseeable injury to persons;

Applicant means any person who submits an application and is a wireless provider;

Application means a request submitted by an applicant to an authority for a permit to collocate small wireless facilities on a utility pole or wireless support structure, or to approve the installation, modification, or replacement of a utility pole;

Authority pole means a utility pole owned, managed, or operated by or on behalf of an authority, but such term shall not include municipal electric utility distribution pole or facilities;

Collocate or collocation means to install, mount, maintain, modify, operate, or replace small wireless facilities on or immediately adjacent to a wireless support structure or utility pole, provided that the small wireless facility antenna is located on the wireless support structure or utility pole;

Decorative pole means an authority pole that is specially designed and placed for aesthetic purposes;

Director means the director of public works or their authorized representative;

Fee means a one-time, nonrecurring charge;

Permit means a written authorization required by an authority to perform an action or initiate, continue, or complete a project;

Rate means a recurring charge;

Right-of-way means the area on, below, or above a public roadway, highway, street, sidewalk, alley, or similar property used for public travel, but not including a federal interstate highway, railroad right-of-way, or private easement;

Small wireless facility means a wireless facility that meets both of the following qualifications:

Each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and

All other equipment associated with the wireless facility, whether ground or pole mounted, is cumulatively no more than 28 cubic feet in volume, provided that no single piece of equipment on the utility pole shall exceed nine cubic feet in volume; and no single piece of ground mounted equipment shall exceed 15 cubic feet in volume, exclusive of equipment required by an electric utility or municipal electric utility to power the small wireless facility.

The following types of associated ancillary equipment shall not be included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, grounding equipment,

power transfer switch, cut-off switch, and vertical cable runs and related conduit for the connection of power and other services;

Utility pole means a pole or similar structure that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, or for the collocation of small wireless facilities; provided, however, such term shall not include wireless support structures, electric transmission structures, or breakaway poles owned by the state highways and transportation commission;

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:

- The structure or improvements on, under, or within which the equipment is collocated;
- Coaxial or fiber-optic cable between wireless support structures or utility poles;
- Coaxial or fiber-optic cable not directly associated with a particular small wireless facility; or
- A wireline backhaul facility;

Wireless infrastructure provider means any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment or wireless facilities but that is not a wireless services provider;

Wireless provider means a wireless infrastructure provider or a wireless services provider;

Wireless services means any services using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities;

Wireless services provider means a person who provides wireless services;

Wireless support structure means an existing structure, such as a monopole or tower, whether guyed or self-supporting, designed to support or capable of supporting wireless facilities; an existing or proposed billboard; an existing or proposed building; or other existing or proposed structure capable of supporting wireless facilities, other than a structure designed solely for the collocation of small wireless facilities. Such term shall not include a utility pole.

Zoning Ordinance means the Title VII—Zoning and Planning Ordinance of the City of Gladstone, Missouri. (Ord. No. 4.463, § 3, 2-25-2019)

Sec. 6.115.1402. General requirements.

(a) Height restrictions.

- (1) Each new, replacement, or modified utility pole installed in the right-of-way shall not exceed the greater of ten feet in height above the tallest existing utility pole in place as of August 28, 2018 located within 500 feet of the new pole in the same right-of-way or 50 feet above ground level at the site of the proposed installation, replacement, or modification.
- (2) New small wireless facilities in the right-of-way shall not exceed more than ten feet above an existing utility pole in place as of August 28, 2018.
- (3) Any new, modified, or replacement utility pole that exceeds these height limits shall be subject to a conditional use permit under the city's zoning regulations.

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- (b) *Concealment requirements.* The reasonable, objective, cost-effective standards outlined in this subsection seek to ensure that all small wireless facilities deployed in the city are deployed in a manner that preserves the visual appearance of the surrounding area and the legal use of the right-of-way. Any of the requirements set forth in this subsection may be waived or altered by the director upon an applicant establishing good cause as to why the concealment requirements should not apply.
- (1) *Small wireless facility antenna.* All antennas mounted as part of the deployment of a small wireless facility shall be mounted to the top of the utility pole or wireless support structure and aligned with the centerline of the utility pole or wireless support structure, unless otherwise agreed to by the director based on the specific context and characteristics of the utility pole or wireless support structure.
- a. *Shape.* Any small wireless facility antenna collocated within the city shall be cylindrical or completely housed within a cylindrical enclosure or radome unless otherwise agreed to by the director based on the specific context and characteristics of the utility pole, wireless support structure, or small wireless facility.
- b. *Color.* Exposed antennas and antenna enclosures shall match the color specifications of the utility pole or the wireless support structure.
- (2) *Associated pole equipment.* Any equipment attached to a pole as part of a small wireless facility shall be of the same or similar color as the pole on which it is attached. To the extent possible, any wires, fiber-optic cable, coaxial cable or any other cables associated with the collocation of a small wireless antenna running from any associated equipment, both pole mounted and ground mounted, shall run on the interior of the pole. If running any wires, fiber-optic cable, coaxial cable, or any other cable on the interior of the pole is not possible then said wires and cables shall either be located within a cylindrical tubing of the same or similar color as the pole and mount flush against the pole or be of the same or similar color as the pole on which they are attached and mounted flush against the pole or in any other matter which would reasonably conceal them. The director, in their discretion, may require additional concealment requirements, including the attachment of banners or signs on either side of any associated pole equipment.
- (3) *Associated ground equipment.* All associated ground equipment mounted as part of a small wireless facility deployment shall be placed to the greatest extent possible in an area so as to minimize its visual intrusiveness and detrimental effect to the legal use of the right-of-way. All associated ground equipment shall be located within a green cabinet or enclosure or any other color cabinet or enclosure that would minimize visual intrusiveness and conceal the associated ground equipment. To the extent possible,
- (4) *Replacement poles.* Any replacement utility pole located for the purpose of siting a small wireless facility shall reasonably conform to the appearance of other similar utility or streetlight poles in the area.
- (c) *Decorative poles.* Any applicant seeking to replace a decorative pole for the purpose of collocating a small wireless facility shall replace said decorative pole with a pole conforming to the design aesthetics of the decorative pole being replaced. Conformance to the design aesthetics of the decorative pole means, that any replacement pole shall at a minimum be of the same or similar design as the decorative pole, contain the same or similar decorative elements of the original decorative pole, be of the same color as the original decorative pole and other decorative poles in the area and that the small wireless facility collocated on the replacement decorative pole be the same color as the decorative pole and the replacement decorative pole.
- (d) *Indemnification, insurance, performance bond.*
- (1) *Indemnification.* Wireless providers shall indemnify and hold the city, its officers, and employees harmless against any damage or personal injury caused by the negligence of the wireless provider or its employees, agents, or contractors.

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- (2) *Insurance.* As part of any permit issued by the city under this article, an applicant must provide proof of liability insurance coverage, prior to the effective date of any permit issued, against any damage or personal injury caused by the negligence of the wireless provider or its employees, agents, or contractors in an amount no less than the amount provided for in RSMo 537.210. If the applicant is self-insured, the applicant must submit to the city proof of self-insurance in a comparable amount to the insurance referenced in the previous sentence.
- (3) *Performance bond.*
- a. An applicant for a permit under this article shall post a performance bond of \$1,500.00 per small wireless facility not to exceed \$75,000.00 for all small wireless facilities deployed by the applicant. The performance bond shall be used to:
 1. Provide for the removal of abandoned or improperly maintained small wireless facilities, including those that the city determines need to be removed to protect public health, safety, or welfare;
 2. Restore the right-of-way in connection with removals;
 3. Recoup rates or fees that have not been paid by a wireless provider in over 12 months, provided the wireless provider has had notice and an opportunity to cure.
 - b. Upon completion of the work associated with the permit to the satisfaction of the director, the director shall eliminate the bond or reduce its amount after a time appropriate to determine whether the work performed was satisfactory, which time shall be established by the director.
 - c. Recovery by the city for any amounts under the performance bond required by this article does not limit an applicant's duty to indemnify the city in any way, nor shall such recovery relieve an applicant of its obligations under a permit or reduce amounts owed to the city other than by the amounts recovered by the city under the performance bond, or in any respect prevent the city from exercising any other right or remedy it may have.
 - d. Applicants that have at least \$25,000,000.00 in assets in the state and do not have a history of permitting noncompliance within the city's jurisdiction shall be exempt from the insurance and bonding requirements otherwise authorized by this subsection.
- (e) *Relocation of facilities.* Whenever, in the interest of public safety and convenience, the city may require a wireless provider relocate, move, alter, change, adapt, or conform the underground or above ground facilities of a wireless provider, the wireless provider shall make the alterations or changes as soon as practicable after being so ordered in writing by the city without claim for reimbursement or damages against the city.
- (f) *Calculation of time.* Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required under this article or any permit, and a period of time is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time.
- (g) *Construction standards.* All requirements of this article shall apply to the construction, modification, and maintenance of small wireless facilities and are reincorporated herein as building code requirements to the extent permitted by law. The construction, operation, maintenance, and repair of small wireless facilities shall be in accordance with applicable codes. All small wireless facilities shall be installed and located with due regard to minimizing interference with the public and with other users of the right-of-way including the city. An applicant shall not place small wireless facilities or obstruct or hinder the various utility serving the residents and businesses in the city of their use of any right-of-way. Any and all right-of-way disturbed or damaged during the small wireless facilities work shall be promptly repaired or replaced by the applicant to its previous condition. Any wireless infrastructure provider, contractor or subcontractor must be properly

licensed under laws of the state and all applicable local ordinances. Each wireless infrastructure provider, contractor or subcontractor shall have the same obligations with respect to its work as wireless services provider would have hereunder and applicable laws if the work were performed by the wireless services provider. The wireless services provider shall be responsible for ensuring that the work of wireless infrastructure providers, contractors or subcontractors is performed consistent with their permits and applicable law, shall be fully responsible for all acts or omissions of any wireless infrastructure provider, contractor or subcontractor, and shall be responsible for promptly correcting any acts or omissions by a wireless infrastructure provider, contractor or subcontractor.

- (h) *Location.* Small wireless facilities and utility poles shall be installed and maintained so as not to obstruct or hinder the usual travel or public safety on the right-of-way or obstruct the legal use of the right-of-way by the city or other authorized right-of-way users.
- (i) *Replacement.* The city may require an applicant to replace a utility pole on a nondiscriminatory basis for reasons of safety and reliability.
- (j) *Retained zoning authority.* Where authorized by applicable law the city may require that an applicant under this article receive all zoning approvals necessary or required by the zoning ordinance of the city.
- (k) *Deemed approved facilities.* Should the city fail to act with the time required by applicable law, any small wireless facility collocated on an existing structure or any installation, modification, or replacement of a utility pole shall be done in compliance with each and every provision of this article.

(Ord. No. 4.463, § 3, 2-25-2019)

Sec. 6.115.1403. Small wireless facilities permit.

- (a) *Applications.* Applications for a permit to collocate a small wireless facility on a utility pole or a permit for the installation, modification, or replacement of a utility pole shall be filed on such forms as required by the director and accompanied by the appropriate deposit as stated below. Applications are to be processed subject to the requirements of and in the manner and timeframe as otherwise established in this article and subject to the applicable time frames imposed by applicable law. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application.
 - (1) *Collocation application fee.* An application for a permit to collocate a small wireless facility on a utility pole shall be accompanied by a deposit of \$100.00 for each small wireless facility the applicant seeks to collocate on a utility pole.
 - (2) *Installation, modification, replacement fee.* Applications for a permit to install, modify, or replace a utility pole shall be accompanied by a deposit of \$500.00 for each installation, modification, or replacement sought by the applicant.
- (b) *Preapplication meeting.* Before any application is made, the applicant is encouraged to meet with the director to discuss, in general, the procedures and requirements for a permit request under this section.
- (c) *Application process.*
 - (1) *Form; deficiency notice.* Any application under this section shall be submitted on forms in accordance with the above to the director for a determination of completeness. Within the time prescribed by law of the receipt of an application, or such longer or other review times allowed by applicable law, the director shall review the application and identify any ways in which the application is not complete and provide the applicant with a written explanation of the deficiencies with citation to the code or statutes requiring such deficient item.

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- (2) *New application.* Given the various time restrictions applicable to approvals under applicable law, any modification of an application other than to correct incompleteness may be denied by the director if the change is material or presents difficulty in completing review of the modified application within the established review time. In such circumstance, the modified application must be resubmitted as a new application and the original application shall be deemed withdrawn.
- (3) *Approval or denial.* The city shall approve or deny of the application to collocate a small wireless facility or the application for the installation, modification, or replacement of a utility within the timeframes provided by applicable law.
- (d) *Application contents.* An application for a permit under this section shall contain, at a minimum, the following information:
- (1) Site-specific structural integrity and make-ready analysis prepared by a structural engineer. The make-ready analysis shall include plans and detailed cost estimates for any make-ready work as needed. Any cost associated with the make-ready work shall be the sole responsibility of the applicant.
 - (2) The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. The photographs shall include a digital photo simulation of the proposed location providing "before and after" views demonstrating the impact of the proposed wireless facilities on the surrounding environment, including the right-of-way if applicable.
 - (3) The equipment type and model numbers of the antennas and all other wireless equipment associated with the small wireless facility.
 - (4) An attestation that the small wireless facility complies with the volumetric limitations set forth in section 6.115.1401.
 - (5) Applicable indemnity, insurance, and performance bond information as required by this article.
 - (6) An applicant that is not a wireless services provider must provide evidence of agreements or plans that demonstrate that the small wireless facility will be operational for use by a within one year after the permit for the applicable small wireless facility is issued, unless the city and applicant agree to extend this period in writing or if delay is caused by a lack of commercial power or communications transport facilities to the site and the applicant notifies the city in writing. The non-wireless service provider applicant must provide the above information by attestation, attached to the applicable application.
 - (7) A projected commencement and termination date of the work proposed under the permit. If said dates are not known at the time of the application, then any permit holder shall provide the director advanced, written notice of such dates once determined.
 - (8) Any information necessary to establish that the proposed collocation of the small wireless facility meets the concealment requirements of section 6.115.1402(b).
 - (9) Any information necessary to determine that the collocation meets the height restrictions of section 6.115.1402(a).
 - (10) In the event that the proposed small wireless facility is to be attached to an existing utility pole owned by an entity other than the city, the wireless provider shall provide legally competent evidence of the consent of the owners of such pole to the proposed collocation.
 - (11) Any other information deemed to be relevant by the director.
- (e) *Consolidated applications.*

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- (1) An applicant may file a consolidated application and receive a single permit for the collocation of multiple small wireless facilities. An application may include up to 20 separate small wireless facilities, provided that they are for the same or materially same design of small wireless facility being collocated on the same or materially the same type of utility or wireless support structure and all the collocations are geographically proximate. The denial of one or more small wireless facilities in a consolidated application shall not delay the processing of any other small wireless facilities in the same batch;
 - (2) If the city receives individual applications for approval of more than 50 small wireless facilities or consolidated applications for approval of more than 75 small wireless facilities within a 14-day period, whether from a single applicant or multiple applicants, the city may, upon its own request, obtain an automatic 30-day extension for any additional collocation or replacement or installation application submitted during that 14-day period or in the 14-day period immediately following the prior 14-day period. The city will promptly communicate its request to each and any affected applicant.
- (f) *Make-ready work.* The city shall provide a good faith estimate for any make-ready work necessary to enable a pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within the timeframe provided by applicable law. Make-ready work, including any pole replacement, shall be completed within the timeframe provided by applicable law.
- (g) *Rate for collocation.* If an application for the collocation of a small wireless facility is approved, the wireless provider shall pay to the city \$150.00 per year per small wireless facility collocated on an authority pole.

(Ord. No. 4.463, § 3, 2-25-2019)

Sec. 6.115.1404. Denial of permit.

- (a) *Reasons.* The city may deny a proposed collocation of a small wireless facility or installation, modification, or replacement of a utility pole if the action proposed in the application submitted to the director could reasonably be expected to:
- (1) Materially interfere with the safe operation of traffic control equipment or city-owned communications equipment;
 - (2) Materially interfere with sight lights or clear zones for transportation, pedestrians, or nonmotorized vehicles;
 - (3) Materially interfere with compliance with the American Disability Act, 42 U.S.C. Sections 1201 to 12213, or similar federal or state standards regarding pedestrian access or movement;
 - (4) Materially obstruct or hinder the usual travel or public safety on the right-of-way;
 - (5) Materially obstruct the legal use of the right-of-way by an authority, utility or another third party;
 - (6) Fail to comply with the spacing requirement set forth in section 6.115.510(6).
 - (7) Fail to comply with applicable codes, including nationally recognized engineering standards for utility poles or wireless support structures;
 - (8) Fail to comply with the reasonably objective and documented aesthetics of a decorative pole and the applicant does not agree to pay to match the applicable decorative elements;
 - (9) Fail to comply with undergrounding requirements as of January 1, 2018 or any new undergrounding requirements for new developments; or
 - (10) Any other reason as allowed by applicable state or federal law.
- (b) *Denial.* The city shall document the complete basis for the denial in writing and send said denial and any accompanying documentation to the applicant on the day the authority denies the application. The applicant

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may cure the deficiencies identified by the city and resubmit the application within the timeline provided for in applicable law without paying an additional application fee.

(Ord. No. 4.463, § 3, 2-25-2019)

Sec. 6.115.1405. Fast-track small wireless facility deployment.

- (a) *General conditions.* Small wireless facilities meeting the below, additional requirements and all other requirements of this article may be authorized to be collocated with the approval of the director on an expedited 20-day timeframe subject to the following additional requirements:
 - (1) Only one small wireless facility shall be permitted per structure in the rights-of-way;
 - (2) The small wireless antenna and associated pole equipment shall be of the same or similar color as the pole on which it is to be attached;
 - (3) All wires and cables associated with the small wireless facility shall be installed on the interior of the pole; and
 - (4) No associated ground equipment shall be authorized; and
 - (5) No small wireless facility shall be located in a manner which obstructs or causes a safety concern for vehicle or pedestrian traffic; and
 - (6) If the proposed structure the applicant proposes to locate its small wireless facility on is not structurally sound, but the director finds such to be a desired location, the director can require the applicant to install a new substantially similar structure at its cost.
- (b) *New or replacements poles.* An applicant applying for approval of the siting of a small wireless facility under this section may request or require that a new or replacement utility pole may be located as part of such deployment subject to the following additional requirements:
 - (1) The new or replacement utility poles is no greater than five feet taller than the any adjacent or existing utility pole within the same right-of-way;
 - (2) The new or replacement utility pole is of the same or materially similar design as adjacent or surrounding utility poles;
- (c) *Application fee.* The application fee for the collocation of a small wireless facility under this section shall be \$75.00. The application fee for a new or replacement utility pole under this section shall be \$400.00.
- (d) *Rate for collocation.* The rate for collocating a small wireless facility under this section shall be \$100.00 per small wireless facility collocated on an authority pole.
- (e) *Consolidated applications.* An applicant may file a consolidated application under this section regarding the collocation of 20 small wireless facilities so long as the proposed small wireless facilities and any new or replacement utility poles are of the same design.
- (f) *Director's discretion.* Approval of small wireless facilities under this section shall be at the discretion of the director following the requirements and criteria stated in this section, this article or chapter 115 generally. Any application under this section may be denied by the director if the application fails to meet any of the requirements of this section or any of the requirements of this article.

(Ord. No. 4.463, § 3, 2-25-2019)

CHAPTER 120. ILLICIT DISCHARGE DETECTION AND ELIMINATION

Sec. 6.120.010. Purpose.

The purpose of this chapter is to provide for the health, safety, and general welfare of citizens of the City of Gladstone, Missouri through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4).
- (2) To prohibit illicit discharges and connections to the municipal separate storm sewer system.
- (3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter.
- (4) To take all necessary actions needed to correct any violations of this chapter and bring said violation into compliance with said chapter.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.020. Definitions.

For the purposes of this chapter, the following shall mean:

Authorized enforcement agency. Employees or designees of the City of Gladstone designated to enforce this chapter.

Best management practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction activity. Activities resulting in land disturbance of one acre or more and subject to an NPDES construction permit. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Hazardous materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in section 6.120.070.

Illicit connections. An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water

discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial activity. Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26 (b)(14).

National pollutant discharge elimination system (NPDES) storm water discharge permit. A permit issued by the Missouri Department of Natural Resources under the authority of the United States Environmental Protection Agency pursuant to 33 USC § 1342(b) that regulates the discharge of pollutants to waters of the United States.

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. A lot, plot or parcel of land, easement or public way, including any structures thereon.

Storm drainage system. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Storm water pollution prevention plan. A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.030. Applicability.

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City of Gladstone.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.040. Responsibility for administration.

The City of Gladstone shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the City of Gladstone may be delegated in writing by the city manager to persons or entities acting on behalf of the city.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.050. Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.060. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.070. Discharge prohibitions.

- (a) *Prohibition of illegal discharges.* No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing pollutants.
- (2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency and Missouri Department of Natural Resources, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

- (b) *Prohibition of illicit connections.*

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

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- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - (3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.080. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit shall be the full responsibility of the permittee and may be required in a form acceptable to the City of Gladstone prior to the allowing of discharges to the MS4.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.090. Monitoring of discharges.

- (a) *Applicability.* This section applies to all persons discharging to the MS4.
- (b) *Access to facilities.*
 - (1) All industrial activities, including construction activities, subject to an NPDES permit, shall maintain records of all parameters and conditions required of their NPDES permit. Copies of this information shall be provided to the City of Gladstone when requested.
 - (2) Where it is necessary to make an inspection to enforce the provisions of this chapter, or where the City of Gladstone has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this chapter, the City of Gladstone is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested.
 - (3) If such structure or premises is unoccupied, the City of Gladstone shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the City of Gladstone shall have recourse to the remedies provided by law to secure entry.
 - (4) The City of Gladstone is also authorized to set up such devices as necessary to conduct monitoring and sampling of storm water discharge to ensure compliance with this chapter. The owner of the premises shall allow the City of Gladstone to enter the structure or premises at reasonable times to inspect and read monitoring devices.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.100. Requirement to prevent, control, and reduce storm water pollutants by the use of best management practices.

Any person, activity, operation, or facility that may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States shall implement best management practices (BMPs) to prevent, control, and reduce storm water pollution. The owner or operator of a commercial or industrial

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establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.110. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, yard waste, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.120. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Gladstone Emergency Management Director within three calendar days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.130. Means of appeal.

Any person directly affected by the decision of the City of Gladstone or a notice or order issued under this chapter shall have the right to appeal to the board of zoning and adjustments (BZA) provided that a written request for appeal is filed within ten calendar days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply, or the requirements of this chapter are adequately satisfied by other means. The decision of the board shall be final.

(Ord. No. 4.124, § 1, 10-26-2009)

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Sec. 6.120.140. Enforcement measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 30 calendar days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. Enforcement measures may include termination of water service until violation has been corrected.

It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.150. Cost of abatement of the violation(s).

Upon failure of the owner or agent having charge of property to correct said violation(s) and the City of Gladstone having taken necessary measure to abate said violation(s), any and all cost incurred by the City of Gladstone either it be by contracting out or use of City employees, all costs shall be the responsibility of the owner or agent having charge of said property. If the bill is not paid within 30 calendar days of the date of the bill, the fees will be assessed on the property and be noted on the property tax notice.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.160. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.170. Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.180. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.190. Remedies not exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. No. 4.124, § 1, 10-26-2009)

Sec. 6.120.200. Violations.

- (1) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to allow, maintain, or cause same to be done, in conflict with or in violation of any provisions of this chapter.
- (2) *Violation; penalties.* Any person, who violates a provision of this chapter, fails to comply with any order or notification made there under, from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of zoning and adjustments, or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 4.124, § 1, 10-26-2009)

Title VII ZONING AND PLANNING ORDINANCE (ZAPO)⁴⁸

⁴⁸Editor's note(s)—Ord. No. 4.414 Editor's note(s)—, § 1, adopted Jan. 22, 2018, amended title VII in its entirety to read as herein set out. Former title VII, §§ 7.100.010Editor's note(s)—7.100.070, 7.105.010Editor's note(s)—7.105.030, 7.110.010Editor's note(s)—, 7.110.020Editor's note(s)—, 7.115.010Editor's note(s)—, 7.115.020Editor's note(s)—, 7.120.010Editor's note(s)—, 7.120.020Editor's note(s)—, 7.125.010Editor's note(s)—, 7.125.020Editor's note(s)—, 7.130.010Editor's note(s)—7.130.030, 7.135.010Editor's note(s)—7.135.030, 7.140.010Editor's note(s)—7.140.030, 7.145.010Editor's note(s)—7.145.030, 7.150.010Editor's note(s)—7.150.030, 7.155.010Editor's note(s)—7.155.030, 7.160.010Editor's note(s)—, 7.160.020Editor's note(s)—, 7.161.010Editor's note(s)—7.161.060, 7.165.010Editor's note(s)—, 7.166.010Editor's note(s)—7.166.090, 7.167.010Editor's note(s)—7.167.030, 7.170.010Editor's note(s)—7.170.060, 7.175.010Editor's note(s)—7.175.030, 7.180.010Editor's note(s)—7.180.090, 7.181.010Editor's note(s)—7.181.110, 7.185.010Editor's note(s)—7.185.060, 7.190.010Editor's note(s)—7.190.070, pertained to similar subject matter, and derived from the Code 1974, § 32-1—32-70; Ord. No. 3.403, 9-12-1994; Ord. No. 3.703, 3-8-1999; Ord. No. 4.036, 7-9-2007; Ord. No. 4.046, 9-24-2007; Ord. No. 4.063, 2-11-2008; Ord. No. 4.093, 1-26-2009; Ord. No. 4.122, 10-12-2009; Ord. No. 4.123, 10-26-2009; Ord. No. 4.123, 10-26-09; Ord. No. 4.179, 2-28-2011; Ord. No. 4.228, 2-25-2013; Ord. No. 4.396, 9-11-2017.

Cross reference(s)—Any ordinance relating to zoning saved from repeal, § 1.100.150Cross reference(s)—(11); planning commission, § 1.110.070Cross reference(s)— et seq.; land and development, title VII; flood control regulations, § 8.110.010Cross reference(s)— et seq.; subdivision regulations, § 8.115.010Cross reference(s)— et seq.; building and construction, title IX; sign regulations, § 9.1600.010Cross reference(s)— et seq.

State law reference(s)—Zoning and planning, RSMo 89.010 et seq.

CHAPTER 100. IN GENERAL

Sec. 7.100.010. Definitions.

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

Active solar system means a solar energy system that transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, or chemical means.

Agriculture means the planting, cultivating, harvesting and storage of grains, hay or plants, commonly grown in the county. The raising and feeding of livestock and poultry shall be considered an agricultural venture if the area in which the livestock or poultry is kept is ten acres or more in area, and if such raising of livestock and poultry is incidental or supplemental to the raising of crops. The storage of crops, grains, feeds or other products shall be limited to those raised on or to be consumed on the premises.

Alteration means any addition, removal, extension or change in the location of any exterior wall of a main building or accessory building.

Apartment means a room or suite of rooms, within an apartment house, arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit.

Basement means a story below the first story as defined under the term "story," counted as a story for height regulations if subdivided and used for dwelling purposes other than by a janitor or watchman employed on the premises.

Blades shall mean the aerodynamic surface that catches the wind.

Block means a piece or parcel of land entirely surrounded by public highways or streets. In cases where the platting is incomplete or disconnected, the community development director shall determine the outline of the block.

Boardinghouse or lodginghouse means a building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for not more than three persons for compensation, pursuant to previous arrangements, but not for the public or transients.

Breezeway means a pedestrian connection between two buildings, having a permanent roof and floor and having no side walls except that screen wire or lattice having at least 50 percent open area may be attached in the form of sidewalls.

Buffer zone means an open and unpaved ground area around the perimeter of a tract landscaped or planted so as to provide an attractive green space, having a grade not exceeding 2:1 and a width of not less than 35 feet. Parking is not allowed in a buffer zone, except as otherwise provided herein. Each buffer zone shall be maintained by the owner thereof in accordance with applicable laws and codes without expense to the city.

Building means an enclosed structure, anchored to permanent foundation, and having exterior or party walls, and a roof, designed for the shelter of persons, animals or property. When divided by other common or contiguous walls, each portion of section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway having a continuous roof shall be deemed as one building.

Building-integrated solar systems means an active solar system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or

structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar systems that are contained within roofing materials, windows, skylights, and awnings.

Cluster dwelling unit means a single-family dwelling unit constructed as a part of a series or grouping of other single-family dwelling units, each single-family dwelling unit being designed and intended to be separately owned in fee, including but not limited to property coming under the Condominium Property Act of the state (RSMo ch. 448).

Cluster grouping means a series or grouping of cluster dwelling units. Each single-family cluster dwelling unit may be adjoined or attached to adjacent dwelling units by party walls or otherwise, or may be constructed as an independent structure.

Commercial floor area means that area of a building surrounded by permanent walls and covered by a permanent roof, excluding storage areas, utility rooms, washrooms, vaults and other areas not generally used by patrons.

Commercial garage means a building, or portion thereof, designed or used for the storage, sale, hiring, care or repair of motor vehicles, which garage is operated for commercial purposes.

Community acreage means a building, or portion thereof, other than a public, private or storage garage, providing storage for automobiles with facilities for washing, but no other services, such garage to be in lieu of private garages within a block or portion of a block.

Corner lot means a lot abutting upon two or more streets at their intersection; a corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the community development director.

Curb level means the top of the curb in front of the lot or, in the case of a corner lot, along that abutting street where the curb is the highest.

Department means Department of Health and Senior Services (DHSS).

Dwelling means a building, or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, and multiple dwellings, boarding and lodging houses, apartment houses and apartment hotels, but not hotels, motels, house trailers or mobile homes.

Emergency generator means an engine that converts mechanical energy into electrical energy during times of electrical power outages or failure. Emergency generators are not regulated by this chapter.

Family means one or more persons who are related by blood, marriage or adoption living together and occupying a single housekeeping unit, or a group of not more than five (excluding servants) living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a nonprofit basis. The term "family" shall also include individuals residing in a home for mentally or physically handicapped persons or residing in a foster home, in compliance with and as permitted by state statute.

Front lot line means the boundary between a lot and the street upon which it fronts.

Front yard means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

Garden-apartment building means an apartment building, located on a lot either singly or together with other, similar apartment buildings, the total ground floor area of which does not exceed 25 percent of the area of the lot, and which building does not exceed 35 feet or two and one-half stories in height.

Grid-intertie solar system means a photovoltaic solar system that is connected to an electric circuit served by an electric utility company.

Height of building or wall forming a yard or court means the vertical distance from the lowest level of such yard to the highest point of any boundary wall.

Height of buildings means the vertical distance measured from the average finished grade abutting the building to the level of the highest point of the roof beams of flat roofs, or roofs including not more than one inch to the foot, or to the mean height level of the top of the main plates and highest ridge for other roofs.

Hotel means a building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged with or without meals, and in which there are more than 12 sleeping rooms, and no provisions for cooking in individual rooms.

House trailer or mobile home means any structure used or designed for living, commercial or sleeping purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, and which has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place.

House trailer or mobile home court means land used or intended to be used, let or rented for occupancy by one or more house trailers or mobile homes.

Indirect illumination means lighting of a sign or object in such a way that the source of light cannot be seen.

Interior lot means a lot whose side lines do not abut upon any street.

Large/utility scale wind turbine shall mean a wind energy conversion system (WECS), consisting of a wind turbine, tower, and the associated control or conversion electronics, which has a rated capacity of more than 200 kW and which is intended to produce electricity for sale to a rate regulated or nonregulated utility or use off site. Turbines in this category are typically grouped together to form wind farms or a wind power plant, these groupings may also be referred to as a wind facility.

Lot means a parcel of land occupied or to be occupied by one building or unit group of buildings, and the accessory buildings or use customarily incident thereto, including such open spaces as are required under this title, and having its principal frontage upon a public street.

Lot depth means the mean horizontal distance from the front street line to the rear line.

Lot lines means the lines bounding a lot as defined herein.

Lot width means the horizontal distance between side lines, measured at the front building line.

Marijuana or marihuana means Cannabis indica, Cannabis sativa, and Cannabis ruderalis, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "marihuana" does not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

Marijuana-infused products means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

Medical marijuana cultivation facility means a facility licensed by the department, 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 means a facility licensed by the department, 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 means a facility licensed by the department, to acquire, store, manufacture, transport, and sell marijuana 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 means a facility licensed by the department, to acquire, test, certify, and transport marijuana.

Micro wind turbine shall mean a wind energy conversion system (WECS), consisting of a wind turbine, tower, and the associated control or conversion electronics, which has a rated capacity of ten kW or less. Examples of items that can be used to power include small appliances in boats and campers, a few lights, or portable communication systems, such as radio equipment.

Multiple dwelling means a building, or portion thereof, arranged, intended or designed for occupancy by three or more families, including apartment houses, townhouses and apartment hotels.

Nacelle shall mean the body of the propeller-type wind turbine.

Nonconforming use, building or yard means a use, building or yard which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated. It is a legal nonconforming use if established prior to December 11, 1978.

Off-grid solar system means a photovoltaic solar system in which the circuits energized by the solar system are not electrically connected in any way to electric circuits that are served by an electric utility company.

One-family dwelling means a detached building arranged, intended or designed for occupancy by one family.

Overspeed controls shall mean mechanisms that are used to limit the speed of blade rotation to below the design limits of the WECS. The following systems describe different methods for slowing or stopping a wind turbine in the event of malfunction, for repairs, or any other incident as needed.

- (a) *Braking* shall mean a method of overspeed control that utilizes a disc brake, which can be applied mechanically, electrically, or hydraulically to stop the rotor in emergencies.
- (b) *Feathering* shall mean a method of overspeed control that rotates the blade axis, or rotors, at an angle to maintain the torque at rate wind speeds.
- (c) *Furling* shall mean the method of overspeed control by which the blades are turned away from the direction of the wind.

Passive solar system means a solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Photovoltaic system means a solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Private garage means an accessory building for storage only of automobiles.

Private stable means an accessory building for the keeping of horses, ponies or cows, owned by occupants of the premises, and not kept for remuneration, hire or sale.

Rear lot line means the boundary line which is opposite and most distant from the front street line; except that in the case of uncertainty, the community development director shall determine the rear line.

Rear yard means a yard between the rear lot line, the rear line of the main building and the side lot lines.

Renewable energy easement, solar energy easement means an easement that limits the height or location, or both, of permissible development on the burdened land of structures or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

Renewable energy system means a solar energy or wind energy system. Renewable energy systems do not include passive systems that serve a dual function, such as a greenhouse or window.

Residential floor area means that area of living space surround by permanent walls and covered by a permanent roof, excluding garages or carports and unfinished rooms below grade.

Riding stable means a structure in which horses or ponies, used exclusively for pleasure riding or driving, are housed, boarded or kept for hire, including riding tracks.

Roof pitch means the final exterior slope of a building roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

Side lot line means any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on an alley or a side street line.

Side yard means a yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard thereof.

Sign means any words, numerals, figures, devices, designs or trademarks by which information is made known, such as are used to identify a building structure or object, or designate or mention an individual, profession, firm, business or commodity.

Small wind turbine means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than ten kilowatts (kW), but less than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

Solar access means a view of the sun, from any point on the collector surface, that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 a.m. and 3:00 p.m. Standard time on any day of the year.

Solar collector means a device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar collector surface means any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.

Solar daylighting means a device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

Solar energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar energy device means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting, or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Such systems may also have the capability of storing such energy for future utilization. Passive solar systems shall clearly be designed as a solar energy device such as a trombe wall and not merely a part of a normal structure such as a window.

Solar energy system means a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generating, or water heating.

Solar heat exchanger means a component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

Solar hot water system means a system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar mounting device means devices that allow the mounting of a solar collector onto a roof surface or the ground.

Solar storage unit means a component of a solar energy device that is used to store solar generated electricity or heat for later use.

Storage garage means a building or portion thereof, except those defined as a private, commercial or community garage, providing storage for motor vehicles, with facilities for washing, but no other service.

Story means that part of a building included between the surface of one floor and the surface of the floor next above or, if there is not floor above, that part of the building which is between the surface of a floor and the ceiling next above. A top story attic is a half story, when the main line of the eaves is not above the middle of the interior height of such story. The first story is a half story when between 50 and 75 percent of its exterior walls are exposed to outside light and air entirely above grade and which exterior walls contain windows or doors permitting the entrance of daylight and outside air.

Street means a right-of-way which affords principal means of vehicular access to property abutting thereon.

Street line means the dividing line between the street and the abutting property.

Structural alteration means any change in the supporting members of a building, such as foundation, bearing walls, columns, beams or girders.

Structure means anything constructed or erected which requires locating on the ground, or attached to something having a location on the ground, including, but not limited to, advertising signs, billboards and poster panels, but exclusive of customary fences or boundary or retaining walls.

Through lot means an interior lot, having frontage on two streets.

Tourist court or motel means a tract or parcel of land upon which one or more tourist sleeping units and required parking areas are located.

Total extended height means the height above grade to a blade tip at its highest point of travel.

Tower shall mean the monopole, freestanding, or guyed structure that supports a wind generator. Towers are made from tubular steel, concrete, or steel lattice. The vertical component of a wind energy conversion system that elevates and supports the wind turbine generator and attached blades above the ground up out of the turbulent wind.

Tower height means the height above grade of the fixed portion of the tower, excluding the wind turbine itself.

Townhouse means a building containing two or more dwelling units, which dwelling units are separated by a party wall and are designed and intended to be separately owned in fee under the condominium statutes of the state.

Transportation facility means a facility licensed as such by the Missouri Department of Health and Senior Services in connection with the transportation and storage of medical marijuana.

Two-family dwelling means a building arranged, intended or designed for occupancy by two families.

Turbine shall mean the parts of a wind system including the blades and nacelle.

Variance means relief from one of the provisions of this title, as applied to a specific piece of property, as distinct from rezoning.

Wind energy conversion system (WECS) shall mean any machine designed for the purpose of converting wind energy into electrical energy. The WECS includes all parts of the system.

Words and phrases. Words used in the present tense include the future, words used in the singular number include the plural, and words used in the plural include the singular. The word "building" includes the word "structure", the word "shall" or the word "must" is mandatory; the term "used for" includes the words "designed for" or intended for."

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the least horizontal distance between the lot line and the nearest vertical wall of the main building shall be used. Where lots abut a street that is designated a thoroughfare on the thoroughfare plan of the city, all yards abutting such street shall be measured from a line one-half the proposed right-of-way width from the centerline, or from the lot line, whichever provides the greater setback. On the other lots, all yards abutting a street shall be measured from a line 25 feet from the centerline, or from the lot line, whichever provides the greater setback.

(Ord. No. 4.414 , § 1, 1-22-2018; Ord. No. 4.487, § 2, 8-12-2019)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 7.100.020. Districts designated.

For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, alteration or use of buildings, structures or land, the city is hereby divided into the following districts:

District R-1	Single-family dwelling district
District RCH-1	Cluster housing district
District R-2	Two-family dwelling district
District R-3	Garden-apartment district
District R-4	Apartment house district
District C-O	Nonretail business district
District C-1	Local business district
District C-2	General business district
District C-3	Commercial district
District C-4	Small warehouse and storage district
District M-1	Light industrial district
District P	Planned district
District MXD	Planned mixed use district

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.100.030. District map adopted.

- (a) Boundaries of the districts, as enumerated in section 7.100.020, are hereby established as shown by the zoning district map and legal descriptions as set forth herein. It shall be the duty of the community development director to keep on file in the community development director's office an authentic copy of such map and legal descriptions, and all changes, amendments or additions thereto.
- (b) Whenever any street or other right-of-way is vacated, the particular zoning district in which the adjacent property lies shall be automatically extended to the centerline of any such street. Whenever a street or any other right-of-way is dedicated, the zoning district within the street or right-of-way shall be void.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.100.040. Compliance with title.

Except as hereinafter provided:

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- (1) No building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used for any purpose other than is permitted in the district in which such building, structure or land is situated.
 - (2) No building or structure shall be erected, constructed, reconstructed, moved or altered to exceed the height or area limit herein established for the district in which such building or structure is located.
 - (3) No lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed by this title, nor shall the density of population be increased in any manner, except in conformity with the area regulations established herein.
 - (4) Every building hereafter erected or altered shall be located on a lot as herein defined, and in no case shall there be more than one main building on one lot, except as provided herein.
 - (5) Every building, structure or other use shall meet all requirements set out by that section of this title specifically relating thereto, regardless of whether it may be located in a district zoned for higher uses.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.100.050. Interpretation; conflicting provisions.

The provisions of this title shall be held to be the minimum requirements for the promotion of health, safety, morals or general welfare. Whenever this title requires a greater width or size of yards, courts or other open spaces, or requires a lower height of buildings or less number of stories, or requires a greater percentage of lot to be left unoccupied, or imposes higher standards than are required in any other statute or local ordinance, restriction or regulation, the regulations of this title shall govern.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.100.060. Procedure for amending title and district maps.

- (a) Application for amendment, revision or change of the zoning district map of the city may be made by any person, or such person's agent, who owns the land sought to be rezoned. Such application shall be made to the community development director upon forms prescribed and furnished by the community development director. In addition, the following information shall be submitted with each application:
 - (1) An existing conditions map showing:
 - a. A correct legal description of the tract being considered.
 - b. The existing topography, zoning and improvements of all property adjacent to and within 185 feet.
 - c. All existing streets adjacent to the tract, including pavement and right-of-way widths.
 - d. All existing drainage channels and structures.
 - (2) A proposed site development plan showing:
 - a. The size and location or proposed improvements.
 - b. Proposed versus required parking ratio.
 - c. Proposed driveway locations and widths.
 - d. Any proposed drainage improvements.
 - e. Any proposed landscaping, fencing, screening, etc.

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- (b) A fee as established from time to time by the city council shall accompany each application for an amendment. Such fee shall be set out in the schedule of fees and charges on file in the office of the city clerk. Immediately upon receipt of such application, the community development director shall note thereon the date of filing and make a permanent record thereof. The planning commission shall conduct a public hearing on all such applications; the community development director shall note thereon the date of filing and make a permanent record thereof. The planning commission shall conduct a public hearing on all such applications no later than 40 days from the date of the filing of the application. Any such hearing may, for good cause and at the request of the applicant, or in the discretion of the commission, be continued. Notice of such hearing shall be published in one issue of a newspaper of general circulation legally authorized to publish such notices, such notice to be published at least 15 days prior to date of such hearing before the commission.
 - (c) Upon final hearing of such application, the commission shall approve or deny the same. A report of such action, together with a recommendation for final approval or denial, shall be made by the commission to the city council.
 - (d) Before acting upon an application for amendment, the council shall set a time and place for a hearing thereon, notice of which hearing shall be published at least once in a newspaper of general circulation legally authorized to publish such notices at least 15 days prior to the date of such hearing.
 - (e) Recommendations for revision or amendment of this title, including the zoning district map, may also be initiated by the planning commission, upon its own motion, for final determination by the city council; likewise, the city council may initiate, revise, modify or amend this title, including the zoning district map, upon its own motion; provided that such proposed changes shall first be submitted to the planning commission for recommendation and report. In either case, final action thereon shall be taken only upon notice and hearing as provided herein.
 - (f) In case a protest against such revision or amendment is presented, duly signed and acknowledged (properly notarized) by the owners of 30 percent or more, either of the areas of 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 become effective except by the favorable vote of two-thirds of all the members of the city council present and voting at the meeting.
 - (g) No application for rezoning with respect to, or that includes, any tract or portion of land, for which rezoning was previously denied, shall be accepted by the planning commission or council within 60 days of the date of the final denial by the council of such previous request; provided that the council may waive this provision, in the event of substantially changed conditions, on application to the council by sworn affidavits setting forth in detail why a waiver is requested and the grounds therefor.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.100.070. Enforcement, violations and penalties.

- (a) In case any building or structure is erected, constructed, reconstructed, moved, altered or converted, or any building, structure or land is used in violation of this title, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises. Such regulations shall be enforced by the community development director, who is empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat, in violation of any provision of the regulations enumerated herein.

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- (b) The owner or general agent of a building or premises in or upon which a violation of any provision of this title has been committed, or shall exist, or the lessees or tenants of an entire building or entire premises in or upon which such violation has been committed, or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in or upon which such violation has been committed, or shall exist, or the general agent, architect, building contractor or any other person who commits, takes part or assists in any violation, or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor punishable by a fine of not less than \$10.00 and not more than \$100.00, for each and every day that such violation continues. If the offense is willful, on conviction thereof, the punishment shall be a fine of not less than \$100.00 for each and every day that such violation shall continue, or both such fine and imprisonment.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 105. R-1 SINGLE-FAMILY DWELLING DISTRICT

Sec. 7.105.010. Use regulations.

- (a) No building, structure, land or premises in an R-1 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
- (1) R-1A: Agriculture.
 - (2) R-1B: Dwellings, single-family.
 - (3) R-1C: Places of worship.
 - (4) R-1D: Publicly owned and operated buildings, including museums and libraries.
 - (5) R-1 E: Public schools.
 - (6) R-1F: Buildings, structures, parks, playgrounds and related appurtenances owned or operated by the city.
- (b) In addition to the uses listed above, subdistricts shall be permitted accessory uses customarily incident to the uses listed including automobile parking areas, private stables, and the keeping of livestock and fowl in accordance with section 2.105.140 and not involving the conduct of a business or an industry.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.105.020. Performance standards.

- (a) For any dwelling house, there shall be permitted one private garage with space for not more than one motor vehicle for each 2,000 square feet of lot area, or servants' quarters; provided that such garage or servants' quarters shall be located not less than 60 feet from the front lot line, nor less than eight feet from any side or rear lot line; and, in the case of corner lots, not less than the distance required for residences from side streets; and further provided that such servants' quarters shall be occupied only by servants employed on the premises. A garage or servants' quarters constructed as an integral part of the main building shall be subject to the regulations affecting the main building; provided that on a corner lot, a private garage attached to the main building and not exceeding the height of the main building may extend into the required rear yard to a point not less than 18 feet from the rear lot line, and shall not occupy more than 30 percent of the required rear yard. No part of a detached accessory building shall be closer than ten feet to the main building.

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(b) Home occupations are permitted in residential districts provided such use meets the following requirements:

- (1) No outdoor storage of materials.
- (2) No parking of commercial vehicles or commercial deliveries.
- (3) No patrons or any other evidence of the occupation will be discernible at the perimeter of the property.
- (4) The occupation will not produce any obnoxious or offensive vibration, noise, odor, dust, smoke or fumes.
- (5) No signs advertising the occupation may be erected on the property.
- (6) The residential appearance of the dwelling shall not be changed by alterations or additions for business or commercial uses and the business shall not occupy more than 25 percent of the total floor area.
- (7) Such home occupation shall be carried on exclusively by members of the family actually residing in the dwelling, and no persons not residing in such dwelling shall be employed in or assist in such home occupation.
- (8) The person proposing to conduct a home occupation has obtained an occupation license as required for the business to be conducted and has submitted to the director of community development an application form agreeing to compliance with these standards.

(c) A hobby shop may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation; provided that the articles produced or constructed are not sold either on or off the premises; and provided that such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.105.030. Height and area regulations.

- (a) The height of buildings, the minimum dimension of lots and yards, and the minimum lot and floor area per family permitted on any lot, except as provided in chapter 175 of this title, shall be as follows:
- (1) *Height.* Buildings or structures shall not exceed 35 feet, and two and one-half stories in height. At least 75 percent of the roof surface shall be higher than eight feet from grade.
 - (2) *Front yards.* Any building hereafter constructed shall provide for a front yard setback 60 feet from the center of the roadway, with a minimum of 35 feet from the property line.
 - (3) *Side yards.* There shall be a side yard on each side of a building not less than nine feet in width. Buildings on corner lots, where interior lots have been platted fronting on the side street, may project not more than ten feet in front of the building line established for the interior lots on the side street. The setback, in such cases, shall be not less than 25 feet, however, this regulation shall not be so interpreted as to reduce the buildable width of a corner lot in separate ownership or platted at the time of the passage of the ordinance from which this title is derived to less than 35 feet.
 - (4) *Rear yards.* Depth of rear yards shall not be less than 35 feet. On corner lots, both interior lot lines may be regarded as side lot lines, in which case the minimum side yard shall not be less than 18 feet.
 - (5) *Size of lot.* The minimum width of a lot for single-family development shall be 70 feet for a lot which has parallel side lines, and not less than 70 feet at the front building line for lots whose side lines are not parallel. In no case shall a lot in a single-family district contain less than 8,400 square feet.
 - (6) *Minimum floor area.* One thousand two hundred square feet of finished floor area is the minimum.

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- (7) *Lot coverage.* All buildings, including accessory buildings, shall cover no more than 30 percent of the area of the lot.

- (b) All exterior walls shall be finished within one year following the start of foundation.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 110. RCH-1 CLUSTER HOUSING DISTRICT

Sec. 7.110.010. Use regulations.

- (a) No building, structure, land or premises in an RCH-1 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
- (1) RCH-1A: Any use permitted in district R-1.
 - (2) RCH-1 B: Cluster dwelling units and groupings as defined herein.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the uses listed.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.110.020. Height and area regulations.

The height of buildings and the minimum lot area per cluster dwelling unit shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed 35 feet or two and one-half stories in height. Cluster groupings shall be arranged so that no portion of one cluster dwelling unit is located on top of and above any portion of another cluster dwelling unit in the same cluster grouping; provided that cluster dwelling units may be constructed on varying elevations and the height of each unit need not be identical.
- (2) *Lot area per cluster dwelling unit.* The minimum lot area for each cluster dwelling unit for property zoned prior to February 10, 1975, shall be 10,000 square feet but for property zoned RCH-1 on or after February 10, 1975, the minimum lot area for each cluster dwelling unit shall be 8,400 square feet. In no instance shall the number of cluster dwelling units in any one grouping exceed eight.
- (3) *Buffer zone.* Every tract zoned RCH-1 which in any way adjoins, abuts, or is adjacent to a district other than an RCH-1 district shall have a buffer zone, as defined herein, along the boundary line between the two districts, or, if such boundary line is in the center of a street, along the edge of the street right-of-way abutting the RCH-1 district.
- (4) *Open space.* For each cluster housing development there shall be provided at least 40 percent of the land area as open space excluding street rights-of-way. The entire area designated as open space shall be contiguous and shall be adjacent to each individual dwelling unit. This area shall be held in common and maintained by the individual property owners within the development. This area shall be held in common and maintained by the individual property owners within the development.
- (5) *Parking.* See chapter 180 of this title.
- (6) *Utilities and services.* Each cluster dwelling unit shall be independently served by separate heating, air conditioning, sewer, water, electric power, gas and other facility and utility services, wherever such

utilities and services are provided, and no cluster dwelling unit shall in any way be dependent upon such services or utility lines located within another cluster dwelling unit or cluster grouping except as may be installed in public easements. All cluster dwelling units must be connected to public water and sewer lines and all electrical and telephone lines in a cluster housing development site shall be placed underground. Proper and adequate access for firefighting purposes, to service areas to provide garbage and waste collection, and for other necessary services shall be provided.

- (7) *Approval of site development plan.* The city council shall approve a preliminary site development plan before rezoning. This plan shall comply with applicable codes and meet reasonable standards of safety, health, welfare and morals.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 115. R-2 TWO-FAMILY DWELLING DISTRICT

Sec. 7.115.010. Use regulations.

- (a) No building, structure, land or premises in an R-2 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
- (1) R-2A: Any use permitted in district R-1.
 - (2) R-2B: Dwellings, two-family.
- (b) In addition to the uses listed above, subdistricts shall be permitted accessory uses customarily incident to the uses listed, including automobile parking areas, private stables and the keeping of livestock and fowl in accordance with section 2.105.140, and not involving the conduct of a business or an industry.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.115.020. Height and area regulations.

The height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot except as provided in chapter 175 of this title, shall be as follows:

- (1) *Height.* Same as district R-1.
- (2) *Front yards.* Same as district R-1.
- (3) *Side yards.* Same as district R-1.
- (4) *Rear yards.* Same as district R-1.
- (5) *Width of lot.* Same as district R-1.
- (6) *Lot area.* Every dwelling hereafter erected, moved or altered shall provide a lot area of not less than 8,000 square feet for one-family dwellings and 10,000 square feet for two-family dwellings.
- (7) *Percentage of lot coverage.* All buildings, including accessory buildings, shall cover no more than 30 percent of the area of the lot.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 120. R-3 GARDEN-APARTMENT RESIDENTIAL DISTRICT

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(Supp. No. 9)

Sec. 7.120.010. Use regulations.

- (a) No building, structure, land or premises in an R-3 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
 - (1) R-3A: Any use permitted in district R-2.
 - (2) R-3B: Garden apartment buildings as defined herein.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the uses listed and not involving the conduct of a business or industry, including automobile parking areas, garages, or carports.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.120.020. Height and area regulations.

The height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed 35 feet or two and one-half stories in height.
- (2) *Front yards.* Same as district R-1.
- (3) *Side yards.* Same as district R-1.
- (4) *Rear yards.* Rear yards shall be not less than 25 feet.
- (5) *Yard between buildings.* There shall be not less than 20 feet between individual buildings constructed on a lot or tract.
- (6) *Lot area per family apartment unit.* Every building or portion of a building hereafter erected, moved or altered shall provide a lot area for one- and two-family dwellings, the same as in district R-2. The minimum lot area for garden apartments shall be 8,000 square feet for the first family apartment unit and an additional 3,000 square feet for each additional family apartment unit in each building; provided that in no instance shall the number of family apartment units within any one building exceed 24. Where a lot or tract of record contains less area than required, at the time of the passage of the ordinance from which this title is derived, this regulation shall not prohibit the erection of a one-family dwelling.
- (7) *Play area.* A play area or areas for recreational use shall be provided in each apartment project and shall be designated as such on the site development plan. The size of such area or areas shall be not less than 20 percent of the total land area in the tract and no area shall be less than ten feet wide at its narrowest dimension. No play area shall be located on any parking lot or driveway. The land devoted to a buffer zone may be included in the calculation of the play area but no area within ten feet of a street, parking lot or driveway may be used in computing the size of the play area unless a barrier is provided which meets reasonable standards of safety, health and appearance, to separate the play area from the street, parking lot or driveway. Provided that nothing contained herein shall authorize the construction or erection of any barrier along the edge of a buffer zone which abuts a street.
- (8) *Buffer zone.* Every tract zoned R-3 which in any way adjoins, abuts or is adjacent to an R-1 or R-P-1 district shall have a buffer zone, as defined herein, along the boundary line between the two districts, or if such boundary line is the center of a street, along the edge of the street right-of-way abutting the R-3 district.

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- (9) *Lot width.* Same as district R-1. The front of one garden apartment building shall not face the rear of another building.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 125. R-4 APARTMENT HOUSE DISTRICT

Sec. 7.125.010. Use regulations.

- (a) No building, structure, land or premises in an R-4 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed or altered, except in compliance with one or more of the following subdistrict uses:
- (1) R-4A: Any use permitted in district R-3.
 - (2) R-4B: Apartment houses, or multiple dwellings.
 - (3) R-4C: Boardinghouses and lodginghouses.
 - (4) R-4D: Fraternity or sorority houses and dormitories.
 - (5) R-4E: Hospitals, sanitariums or homes for convalescents or the aged, other than for the insane or feeble-minded, or alcoholics or drug addicts.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the uses listed and not involving the conduct of a business or industry, including automobile parking areas, garages or carports.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.125.020. Height and area regulations.

The height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot, except as provided in chapter 175 of this title, shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed 120 feet and shall not exceed ten stories in height and shall be set back from all property lines and street right-of-way lines a distance equal to or greater than the height of the building.
- (2) *Yards.* The distance between buildings and between building and side and rear property lines shall not be less than ten feet, plus five feet for each story of each building over two stories, and a front yard of not less than 35 feet shall be provided.
- (3) *Width of lot.* Same as district R-1.
- (4) *Lot area per family apartment unit.* Every building, or portion of a building, hereafter erected or altered shall provide a lot area for one and two-family dwellings, the same as in district R-2. The minimum lot area for multiple-family dwellings shall be 8,000 square feet for the first family apartment unit and an additional 2,000 square feet for each additional family apartment unit in each building.
- (5) *Play area.* Same as district R-3.
- (6) *Buffer zone.* Every tract zoned R-4 which in any way adjoins, abuts or is adjacent to an R-1 or R-P-1 district shall have a buffer zone, as defined herein, along the boundary line between the two districts

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or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the R-4 district.

(7) *Parking regulations.* See chapter 180 of this title for parking and loading regulations.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 130. C-O NONRETAIL BUSINESS DISTRICT⁴⁹

⁴⁹Cross reference(s)—Business and occupations, title V.

Sec. 7.130.010. Use regulations.

- (a) No building, structure, land or premises in a C-O nonretail business district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
 - (1) C-OA: Office buildings to be used only for the administrative functions of companies, corporations, or social or philanthropic organizations or societies.
 - (2) C-OB: Other office, limited to the following:
 - a. Accountants.
 - b. Architects.
 - c. Artist studios.
 - d. Brokers.
 - e. Engineers.
 - (3) C-OC:
 - a. Dentists.
 - b. Insurance.
 - c. Lawyers.
 - d. Physicians, osteopaths, chiropractors.
 - e. Real estate.
 - (4) C-OD: Support facilities for the uses permitted in C-OC, including drug dispensing pharmacies and optical shops.
 - (5) C-OE: Mortuaries.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the uses listed.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.130.020. Performance standards.

- (a) No merchandise shall be handled or displayed, except at mortuaries.
- (b) No equipment, material or vehicle, other than motor passenger cars, shall be stored outside a building in this district.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.130.030. Height and area regulations.

The height of buildings and the minimum dimensions of yards shall be, except as provided in chapter 175 of this title, as follows:

- (1) *Height.* Same as district R-1.

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- (2) *Front yards.* Same as district R-1.
 - (3) *Side yards.* Same as district R-1.
 - (4) *Rear yards.* Same as district R-1.
 - (5) *Bufferyards.* Every tract zoned C-O which in any way adjoins, abuts or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the C-O district.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 135. C-1 LOCAL BUSINESS DISTRICT⁵⁰

⁵⁰Cross reference(s)—Business and occupations, title V.

Sec. 7.135.010. Use regulations.

- (a) No building, structure, land or premises in a C-1 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except in compliance with one or more of the following subdistrict uses:
 - (1) C-1A: Any use permitted in C-O.
 - (2) C-1B: All other professional offices not included in C-O, banks, savings and loan associations, barbershops and beauty shops, optical shops, seamstress and tailoring, interior decorator, photographer and shoe repair shops.
 - (3) C-1C: Post offices, public and privately owned utility offices and schools.
 - (4) C-1D: Shops and stores for retail sale of notions, automotive supplies (excluding wholesale automotive supplies and automotive services), gifts, novelties, jewelry, printed materials, flowers, tobacco products, photographic equipment, artist and hobby supplies and music supplies.
 - (5) C-1E: Shops and stores for the retail sale of foods and beverages for human consumption, soft goods such as clothing and shoes, drugs and cosmetics, furniture and appliances, hardware and paint, kitchenware, toys and sporting goods and antiques.
 - (6) C-1F: Eating establishments, dry cleaning and laundry (pickup or coin-operated) and businesses providing drive-up window service.
 - (7) C-1G: Bakeries and doughnut shops (including wholesale sales) employing less than five persons. The number of persons employed shall mean the number of regular employees working or on duty at any given time at any such bakery or doughnut shop.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the uses listed.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.135.020. Performance standards.

- (a) No wholesale sales shall be conducted except as provided in section 7.135.010.
- (b) All products shall be sold and all services rendered inside a building.
- (c) Coin-operated vending machines shall be limited to those which are accessory to a permitted main use of the premises.
- (d) No noise, smoke, radiation, vibration, concussion, heat or glare shall be produced that is perceptible outside a building, and no dust, fly ash, gas or other substances that are toxic, caustic or injurious to humans or property shall be produced.
- (e) Sales and consumption of alcoholic beverages and nonintoxicating beer shall be allowed in zone C-1, subject to all applicable regulations and such permits as may be required by law or ordinance.

Note(s)—The following subsections (f)—(j) apply to nonchartered payday and title loan businesses:

(f) *Definitions.*

Payday loan business means the business of making loans for a period of 30 days or less in duration, intended to coincide with the period from one payday of the borrower to the next, and in principle amounts of \$500.00 or less.

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Title loan business means the business of lending money with the pledge of personal property as collateral, evidenced by a certificate of title issued by the state, and regulated under RSMo 367.500—367.533, as from time-to-time amended.

- (g) *Nonconforming use.* A nonconforming use of land existing lawfully at the time of the enactment of this section may be continued, but shall not be extended, expanded or enlarged. Those businesses that were in legal operation at the same location as of the effective date of the ordinance from which this title is derived shall be considered as legal nonconforming uses. An existing business shall be one that has been in continuous operation under the same business name and ownership from and after the date of enactment of this section.
- (h) *Separation requirements.* No permit shall be issued for any payday or title loan business that is located within 5,280 feet of any other payday or title loan business, or within 200 feet of any property used primarily for a single-family residence, a two-family residence, a town home, or an apartment building. The separation distances shall be measured from or to the outer wall of the payday or title loan business, and from or to the property line of the property containing the residential use. The minimum separation distances shall be measured from any payday or title loan business or residence, located within the city limits of Gladstone or outside and immediately adjacent to the city limits. This separation provision shall not apply to an existing business that has been in continuous operation at the same location and under the same business name and ownership from and after the date of enactment of this section.
- (i) *Buildings where located.* Each payday and title loan business shall be located within a multi-tenant commercial building, housing not less than four separate occupancies.
- (j) *Penalty.* Any violation of any provision of subsections (f) through (j) of this section by a person or business shall be subject to the penalties, fines and enforcement provisions set forth in section 7.100.070 of this Code.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.135.025. Public policy.

- (a) Regulation is necessary because there is a likelihood of the expansion of smoke shops in the city.
- (b) Such expansion results in undesirable community impacts including: increase sales of tobacco and vapor products to minors, a greater opportunity for the sale of drug paraphernalia, negative aesthetic impacts, and the loss of property values in close proximity to these uses.
- (c) Regulation addresses negative impacts while still allowing a reasonable number of establishments to be located within the city.
- (d) *Definitions.*

Alternative nicotine product. Any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine products does not include any vapor product, tobacco product or any product regulated as a drug or device by the United States Food and Drugs Administration under Chapter V of the Food, Drug, and Cosmetic Act.

Ancillary sale. Where a grocery store, supermarket, convenience store or similar market uses no more than two percent of its gross floor area, or 200 square feet, whichever is less, for the display, sale, distribution, delivery, offering furnishing, or marketing of conventional cigars, cigarettes or tobacco. For any grocery store, convenience market, retail kiosk or similar use consisting of 250 square feet or less, "ancillary sale" shall mean where not more than five square feet are used for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes or tobacco. The display, sale, distribution, delivery, offering, furnishing, or

marketing of e-cigarettes or tobacco products or tobacco paraphernalia, regardless of square footage used, is subject to the restriction of this section and shall not constitute "ancillary sale" under any circumstances.

Drug paraphernalia. All equipment, products, substances, and materials of any kind which are used, intended for use, or designed or 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 as defined by RSMo 195.010.1(5), or an imitation controlled substance as defined by RSMo 195.010.1(21).

Electronic cigarette or e-cigs. A device consisting of a cartridge with liquid solution containing nicotine and a battery powering a coil with heats the liquid solution into vapor.

Smoke shop. Any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, tobacco paraphernalia, alternative nicotine products, or vapor products; provided however, that any grocery store, supermarket, convenience store, or similar retail use that only sells conventional cigars, cigarettes, or tobacco as an ancillary sale shall not be defined as a "smoke shop and tobacco store" and shall not be subject to the restriction of this section.

Tobacco. Any preparation of the nicotine-rich leaves of a tobacco plant, which are cured by a process of drying and fermentation for use in smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body.

Tobacco paraphernalia. All equipment, products, substances, 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, ingesting, inhaling, or otherwise introducing into the human body tobacco, tobacco products.

Tobacco product. Any substance containing tobacco leaf and/or nicotine including, but not limited to, blunt wraps, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco.

Vapor product. Any noncombustible product 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 a solution or other form that may or may not contain nicotine. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or 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.

- (e) *Nonconforming use.* A nonconforming use of land existing at the time of enactment of this section may be continued, but shall not be extended, expanded or enlarged. Those businesses that were in legal operation at the same location as of the effective date of [the ordinance from which this section is derived] shall be considered as legal nonconforming uses. An existing business shall be one that has been in continuous operation under the same business name and ownership from and after the date of enactment of this section.
- (f) *Separation requirements.* No permit shall be issued for any smoke shop that is located within 5,280 feet of any other smoke shop, or within 200 feet of any property used primarily for single-family residence, a two family residence, a townhouse, an apartment building; or within 500 feet of any school or day care. The separation distance shall be measured from or to the outer wall of the smoke shop, and from or to the property line of the property containing the residential use.

The minimum separation distance shall be measured from any smoke shop or residence, located within the city limits of Gladstone or outside and immediately adjacent to the city limits. This separation provision shall not apply to an existing business that has been in continuous operation at the same location and under the same business name and ownership from and after the date of enactment of this section.

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- (g) *Buildings where located.* Each smoke shop shall be located within a multi-tenant commercial building, housing not less than four separate occupancies.
- (h) *Penalty.* Any violation of any provisions of this section by a person or business shall be subject to the penalties, fines, and enforcement provisions set forth in section 7.100.070 of this title.
- (Ord. No. 4.416 , § 1, 2-26-2018)

Sec. 7.135.030. Height and area regulations.

The height of the buildings and the minimum dimensions of the yards, except as provided in chapter 175 of this title, shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed two and one-half stories and shall not exceed 35 feet.
- (2) *Front yard.* A front yard of not less than 30 feet shall be provided in this district.
- (3) *Side yards.* No side yard is required except where a buffer zone is required; provided that there shall be a side yard of not less than 15 feet on the street side of a corner lot.
- (4) *Rear yards.* A rear yard of not less than 15 feet is required.
- (5) *Buffer zone.* Every tract zoned C-1 which in any way adjoins, abuts, or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the C-1 district.
- (6) *Parking regulations.* See chapter 180 of this title for off-street parking and loading regulations.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 140. C-2 GENERAL BUSINESS DISTRICT⁵¹

⁵¹Cross reference(s)—Business and occupations, title V.

Sec. 7.140.010. Use regulations.

- (a) No building, structure, land or premises in a C-2 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, or altered, except for one or more of the following subdistrict uses:
- (1) C-2A: Any use permitted in district C-1.
 - (2) C-2B: Shops and stores for the sale, at retail or wholesale, of department store merchandise, newspapers, books and stationery supplies.
 - (3) C-2C: Shops and stores for the sale, at retail or wholesale, of automotive supplies and dispensed petroleum products.
 - (4) C-2D: Services such as clubs, radio and television broadcasting studios, indoor public or private entertainment and recreational places, hotels and motels, and places where alcoholic beverages are served.
 - (5) C-2E: Dry cleaning, laundries, appliance and small equipment repair, printing, and publishing.
 - (6) C-2F: Places of public assembly, public parking lots and transportation terminals.
 - (7) C-2G: Pet shops and small animal hospitals.
 - (8) Medical marijuana dispensary facility.
- (b) In addition to the uses listed above, subdistricts shall be permitted accessory uses incident to the uses listed.
- (Ord. No. 4.414 , § 1, 1-22-2018; Ord. No. 4.487, § 1, 8-12-2019)

Sec. 7.140.020. Performance standards.

- (a) Sales and consumption of liquor and nonintoxicating beer shall be allowed in zone C-2, subject to all applicable regulations and such permits as may be required by law or ordinance.
- (b) No noise, smoke, radiation, vibration, concussion, heat or glare shall be produced that is perceptible outside a building and no dust, fly ash, gas or other substances that are toxic, caustic or injurious to humans or property shall be produced.
- (c) No bulk storage of combustible liquids with a flashpoint less than 200 degrees Fahrenheit shall be permitted.
- (d) Pet shops and small animal hospitals shall be enclosed in a soundproofed and air conditioned building without outside pens. There shall be no smoke or odor caused by the operation of this facility that shall be perceptible at the boundaries of the premises. Performance of activities of the pet shops and small animal hospitals shall not create noise outside the soundproofed building, in excess of that normal daily traffic measured at the lot line.
- (e) With the exception of retail sales of petroleum products at the pump, all products shall be displayed and sold inside a building and all services shall be rendered inside a building.
- (Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.140.030. Height and area regulations.

The height of buildings and the minimum dimensions of yards, except as provided in chapter 175 of this title, shall be as follows:

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- (1) *Height.* There shall be no limit on the height of buildings if they are set back from all property lines and street or highway lines a distance equal to or greater than the maximum height of the surrounding buildings.
 - (2) *Front yards.* A front yard of not less than 30 feet shall be provided in this district.
 - (3) *Side yards.* No side yard is required except where a buffer zone is required; provided that there shall be a side yard of not less than 15 feet required.
 - (4) *Rear yards.* A rear yard of not less than 15 feet is required.
 - (5) *Buffer zone.* Every tract zoned C-2 which in any way adjoins, abuts or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the C-2 district.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 145. C-3 COMMERCIAL DISTRICT⁵²

⁵²Cross reference(s)—Business and occupations, title V.

Sec. 7.145.010. Use regulations.

- (a) No building, structure, land or premises in a C-2 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed or altered, except in compliance with one or more of the following subdistrict uses:
 - (1) C-3A: Any use permitted in district C-2.
 - (2) C-3B: Shops, stores, and yards for the sale at retail or the rental of automobiles, trucks, boats, trailers, building supplies, and lawn accessories. Shops and stores for the retail or wholesale sale of automotive equipment, construction equipment and farm equipment.
 - (3) C-3C: Services such as automobile repair and washing, farm machinery repair, general repair and fix-it shops, frozen foods, including lockers.
 - (4) C-3D: Drive-in theaters, swimming pools, and businesses where outside waitress (carhop) service is provided.
 - (5) C-3E: Nurseries and greenhouses.
 - (6) C-3F: Bakeries and pop bottling.
 - (7) C-3G: Manufacture or assembly of products to be sold only at retail on the premises.
 - (8) Medical marijuana dispensary facility.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses incident to the uses listed.

(Ord. No. 4.414 , § 1, 1-22-2018; Ord. No. 4.487, § 1, 8-12-2019)

Sec. 7.145.020. Performance standards.

- (a) Sales and consumption of alcoholic beverages and nonintoxicating beer shall be allowed in zone C-3, subject to all applicable regulations and such permits as may be required by law or ordinance.
- (b) Any manufacturing or assembly of products as permitted above shall be entirely within a totally enclosed building.
- (c) Coin-operated vending establishments of all products and services shall be permitted provided all lights are shielded from or directed away from adjoining residential property.
- (d) No noise, smoke, radiation, vibration, concussion, heat or glare shall be produced that is perceptible outside a building and no dust, fly ash, gas or other substances that are toxic, caustic or injurious to humans or property shall be produced.
- (e) All uses providing goods for display or sale outside of the primary building shall:
 - (1) Comply with required setback lines for all goods being displayed or sold in accordance with section 7.145.030;
 - (2) Provide customer and handicap parking in accordance with chapter 180 of this title;
 - (3) Provide customer parking for all outdoor display at a ratio of one space per every 1,000 square feet of display area;
 - (4) Provide internal traffic flow patterns and unobstructed fire lanes in accordance with chapter 180 of this title and the adopted fire code;

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- (5) Ensure that all vehicular entrances are entirely unobstructed or permanently closed in accordance with city specifications; and
 - (6) Not display any banners, balloons, flags, streamers or other attention-getting devices.
- (f) In planned districts, a site plan revision application shall be submitted for situations which propose to change a use from being conducted primarily within an enclosed building to a use which contains a yard or other outdoor display. In standard zoning districts, a variance application must be submitted for any change of use from business being conducted primarily within an enclosed building to a business use which contains a yard or other outdoor display as a part of the regular and ongoing business conducted on the premises unless the business use complies with all of the performance standards set forth in this section. A use on the property shall be considered to be conducted primarily outside an enclosed building when the square foot area occupied by items offered for sale on the premises outside of the enclosed building exceeds the square foot area of indoor display or if the proceeds from the sale of goods and services displayed or performed outside the enclosed building exceed 50 percent of the gross income generated from the sale of goods and services on the premises.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.145.030. Height and area regulations.

The height of buildings and the minimum dimensions of yards, except as provided in chapter 175 of this title, shall be as follows:

- (1) *Height.* There shall be no limit on the height of buildings if they are set back from all property lines and street or highway lines a distance equal to or greater than the maximum height of the buildings.
- (2) *Front yards.* A front yard of not less than 30 feet shall be provided in this district.
- (3) *Side yards.* No side yard is required except where a buffer zone is required; provided that there shall be a side yard of not less than 15 feet on the street side of a corner lot.
- (4) *Rear yards.* A rear yard of not less than 15 feet is required.
- (5) *Buffer zone.* Every tract zoned C-3 which in any way adjoins, abuts, or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the C-3 district.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 150. C-4 SMALL WAREHOUSE AND STORAGE DISTRICT⁵³

⁵³Cross reference(s)—Business and occupations, title V.

Sec. 7.150.010. Use regulations.

No building, structure, land or premises in a C-4 district shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for the following use:

- (1) C-4A: Businesses commonly known as "miniwarehouses," for the storage of items of personal property in individual storage units.
- (2) Medical marijuana cultivation facility.
- (3) Medical marijuana testing facility/medical marijuana-infused products manufacturing facility.
- (4) Medical marijuana transportation facility.

(Ord. No. 4.414 , § 1, 1-22-2018; Ord. No. 4.487, § 1, 8-12-2019)

Sec. 7.150.020. Performance standards.

- (a) No retail or wholesale sales shall be conducted.
- (b) No manufacturing of any kind shall be permitted in this district.
- (c) The storage area shall be entirely enclosed by a protective fence or other permanent structure at least eight feet in height, and such protective enclosure shall be maintained by locked gates, or entrances, when the storage area is not tended by a qualified and responsible person. Gates will be locked when the attendant retires each evening and when the attendant is absent from the premises.
- (d) No noise, smoke, radiation, vibration, concussion, heat or glare shall be produced that is perceptible outside the building, and no dust, fly ash or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
- (e) Any side of the building providing doorways to storage areas shall be set back from the property line not less than 35 feet.
- (f) All driveways, parking, loading and vehicle circulation areas shall be paved with concrete, asphalt or asphaltic concrete. Adequate bumper guards or fences shall be provided to prevent the extension of vehicles beyond property lines.
- (g) All lights shall be shielded to direct light onto the uses established and away from adjacent property, but it may be of sufficient intensity to discourage vandalism and theft.
- (h) All storage on the property shall be kept within an enclosed building.
- (i) No activities such as miscellaneous or garage sales shall be conducted on the premises.
- (j) The servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment shall not be conducted on the premises.
- (k) All areas not paved as required by subsection (f) of this section shall be landscaped with deciduous and coniferous plant materials. The landscaping plan shall be approved by the community development department. Maintenance of the landscaping shall be sufficient to maintain it in good condition.
- (l) The area shall be properly policed by the owner or operator for removal of trash and debris.
- (m) The operation of such a facility shall in no way be deemed to include a transfer and storage business where the use of vehicles are part of such business.

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- (n) A resident manager shall be required on the site and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval.
 - (o) Such other conditions shall be required as the city council shall deem necessary to provide for orderly development.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.150.030. Height and area regulations.

The height of the buildings, the minimum dimensions of the lots and yards, and the minimum lot area permitted on any lot shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed one story and shall not exceed 18 feet.
- (2) *Front yards.* A front yard of not less than 30 feet shall be provided in this district.
- (3) *Side yards.* No side yard is required, except where a buffer zone is required; provided that there shall be a side yard of not less than 15 feet on the street side of a corner lot.
- (4) *Rear yard.* A rear yard of not less than 15 feet is required.
- (5) *Buffer zone.* Every tract zoned C-4 which in any way adjoins, abuts, or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the C-4 district.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 155. M-1 LIGHT INDUSTRIAL DISTRICT⁵⁴

⁵⁴Cross reference(s)—Business and occupations, title V.

Sec. 7.155.010. Use regulations.

- (a) No building, structure, land or premises in an M-1 light industrial district shall be used, and no building or structure shall be hereafter erected, constructed, moved or altered except in compliance with one or more of the following subdistrict uses:
 - (1) M-1A: Distribution centers, warehouses, packaging and shipping enters, storage buildings and motor freight depots.
 - (2) M-1B: Laboratories and testing centers.
 - (3) M-1C: Manufacture, processing or assembly of office equipment, leather and plastic products, toys, household appliances, paper products and mobile homes.
- (b) In addition to the uses listed above, each of the above subdistricts shall be permitted accessory uses customarily incident to the use listed.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.155.020. Performance standards.

- (a) No use shall be permitted or operated that produces or emits noise, concussion, vibration, heat, glare, odor, noxious gas, dust or fly ash that is perceptible at the property line. All uses must comply with the Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area as set forth by the state air conservation commission.
- (b) Any use located in district M-1 shall be completely enclosed within a building, and any open lots for storage shall be so screened that the operation shall not be visible from any point off the property, at eye level.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.155.030. Height and area regulations.

In district M-1, the height of structures and the minimum dimensions of yards, except as provided in chapter 175 of this title, shall be as follows:

- (1) *Height.* Buildings or structures shall not exceed two stories or 40 feet in height.
- (2) *Front yards.* A front yard of not less than 30 feet shall be provided in this district.
- (3) *Side yards.* No side yard is required except where a buffer zone is required; provided that there shall be a side yard of not less than 15 feet on the street side of a corner lot.
- (4) *Rear yards.* A rear yard of not less than 15 feet is required.
- (5) *Buffer zone.* Every tract zoned M-1 which in any way adjoins, abuts, or is adjacent to a lot or tract in districts R-1—R-4 or R-P-1—R-P-4, inclusive, shall have a buffer zone, as defined herein, along the boundary line between the two districts or, if such boundary line is the center of a street, along the edge of the street right-of-way abutting the M-1 district.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 160. P PLANNED DISTRICTS

Sec. 7.160.010. Generally.

- (a) A planned district shall be for the purpose of permitting and regulating the uses previously cited in this title, and shall provide latitude and flexibility in location of buildings, structures, open spaces, play areas, parking, roads, and drives, and variations in setback and yard requirements. The planning commission shall consider each plan and make its recommendations to the city council, which shall then make a determination as to approval of the plan.
- (b) The site development plan must present a unified and organized arrangement of buildings and service facilities which shall have a functional relationship to the property comprising the planned development and the development shall not materially injure the property and the uses of the properties immediately adjacent to the proposed development.
- (c) Where zoning is changed based upon a preliminary plan, the final plan must be in substantial conformity with the preliminary plan. Substantial compliance shall permit slight variations in setbacks, yard and parking requirements, location and size of buildings, and ratios of building coverage to land area where conditions justify such changes. In the event there is more than a slight change in the plan, the plan must be resubmitted to the planning commission and reapproved by the city council.
- (d) Land may be zoned as district P (planned districts) by the city council on its own motion, without a site development plan, whenever it is felt that such land would be better developed or fulfill the intent of the city's land use and comprehensive plan development. The owner or developer of such land designated as district "P" (planned district) by the council shall submit a site development plan to the planning commission which must be approved by the city council before the land may be developed.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.160.020. Use regulations, requirements and standards.

The uses permitted in any planned district shall be the same as in the corresponding regular district. The requirements and standards found in corresponding regular districts shall apply to planned districts and subject to the variances provided for in section 7.160.010.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 161. MXD PLANNED MIXED USE DISTRICT**Sec. 7.161.010. General purpose and description.**

The zoning of property to MXD planned mixed use district is intended to encourage sustainable neighborhoods with a mixture of land uses, independently or when combined with adjacent mixed use zoned areas, which create a distinctive and unique sense of place. This district is expected to have a pedestrian orientation with a mixture of residential, office and retail uses in closer proximity to one another than would be possible in conventional zoning districts. The district may be appropriate in locations the comprehensive plan recommends higher densities in mixed-use developments and to implement policies for reuse and development of vacant or underutilized commercial parcels and corridors. Proposals for MXD may be eligible for rezoning if they incorporate design principles, including an interconnected street network to disperse traffic and provide convenient routes for pedestrians and bicycles, high-quality civic spaces, compact development resulting in a walkable urban environment and diversity in building types and land uses.

(Ord. No. 4.414 , § 1, 1-22-2018)

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Sec. 7.161.020. Use of this district.

The MXD differs from other districts within the city in that it is a development district intended to guide the physical form of buildings, provide a mix of uses in close proximity to each other in a higher density urban environment. To accomplish the purpose and objectives of this district the following components shall be provided by an applicant seeking this zoning classification or development within this district which will supplement the standards and guidelines provided in this chapter.

- (a) *Regulating plan.* A tract of land may be zoned MXD only upon approval of a regulating plan, which shall be included as part of the zoning application. The plan shall identify various zones, mix of uses, and the character of each zone typically specific to each block or lot in the district. This may include an illustrative plan showing buildings and preliminary designs for streets and civic spaces for each block or lot. The regulating plan dictates where additional standards may apply as part of the next two sections.
- (b) *Development standards and guidelines.* The MXD provides common development standards and guidelines applicable to all areas zoned MXD. In addition, the MXD regulating plan may include additional requirements and guidelines specific to a particular area and/or use. The development standards and guidelines may include but shall not be limited to: building design and character, thoroughfare standards, open space and civic space, parking, lighting, signage, landscaping, among others.
- (c) *Building envelope standards.* The building envelope standards establish parameters for the desired building envelope within each zone. The standards address the relationship of buildings to streets, public spaces, and adjacent development by establishing building heights, setbacks, required transitions, and other requirements based on the character area.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.161.030. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings associated to them:

Accessory dwelling means an apartment not greater than 600 square feet sharing ownership and utility connections with the principal building. The dwelling may or may not be within an outbuilding.

Building envelope means the three-dimensional area enclosed by the front, side and rear building lines and the maximum height and bulk regulations.

Civic space means an outdoor area dedicated for public use.

Liner building means a building specifically designed to mask a parking lot or a parking garage from a frontage.

Live-work means a dwelling unit that contains, to a limited extent, a commercial component. A live-work unit is a unit on its own lot with the commercial component limited to the ground level.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.161.040. Permitted/prohibited uses and intensity of use.

Mixed use districts are expected to include a mix of residential, office and commercial uses, either within an individual property zoned MXD or as part of a larger area of similarly zoned properties. A mix of uses is encouraged within each zone of the regulating plan and may be required in some locations, as specified in this section. Allowed

uses are subject to the standards in section 7.161.050, general development standards and guidelines, and other standards established with zoning approval.

The size, location, appearance and method of operation may be specified to the extent necessary to ensure compliance with the purpose of this district. After approval of the MXD, uses may be added, changed or deleted by amendment. The procedure for considering an amendment shall be the same as for the original adoption. Permitted uses include the following, unless otherwise modified or prohibited by the ordinance granting an MXD planned mixed use district:

- (a) *Permitted uses.*
 - (1) Any use permitted in district C-2.
 - (2) Live-work spaces.
 - (3) Multiple-family dwellings.
 - (4) Two-family dwellings.
 - (5) Single-family dwellings.
 - (6) Accessory dwelling unit.
 - (7) Any other use established by the ordinance granting an MXD planned mixed use district.
- (b) *Special uses.* The following uses shall be prohibited unless specifically granted in the ordinance approving the MXD, or upon amendment to the ordinance approving the MXD, including findings with a preponderance of evidence indicating the proposed use is consistent and compatible with the character and intent of the MXD and can be incorporated as part of a broader mix of uses supporting an active pedestrian urban environment.
 - (1) Automotive supplies and dispensed petroleum products.
 - (2) Parking structures as a primary site use.
 - (3) Drive-up and drive-thru services. When permitted, such facilities shall be integrally designed into the development. The drive-thru lane and drive-thru window shall not be located where visible from the public street or private drive network; or as specifically granted in the ordinance approving the MXD.
- (c) *Outdoor eating and drinking.* Outdoor areas for eating and drinking shall be permitted and are encouraged as part of the development design. Any such outdoor areas shall be designated on a final development plan. When located on public right-of-way such areas may be subject to a right-of-way maintenance agreement.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.161.050. General development standards and guidelines.

Unless otherwise approved by the city council, development within the MXD zoning district shall comply with the following common development standards and guidelines provided in this section. Additional regulations for each separate MXD shall be set forth in the ordinance granting the MXD. The regulating plan may include other requirements as the city council may deem appropriate. The MXD shall conform to all other sections of this title unless specifically exempted in the ordinance granting the MXD.

- (a) *Sustainable design and construction.* The design and construction of new buildings and site improvements are expected to incorporate low impact development practices that increase pedestrian and bicycle accommodations, reduce storm water runoff and pollution, reduce wastewater and

increase water reuse, reduce light pollution, increase building water and energy efficiency, and similar sustainable best practices. The design approach to achieve such practices shall be detailed with plans and components submitted with the MXD zoning application and site plan approvals.

- (b) *Building height.* No maximum height, provided that the height of buildings shall be as established by the MXD building envelope standards. At least 50 percent of the total floor area (excluding structured parking) shall be located above the ground floor, with the exception of auditoriums, conference facilities, theaters, and other similar uses.
- (c) *Setbacks.* The requirements regulating setbacks shall conform to the following, unless otherwise approved by the city council as a part of the building envelope standards. Additionally, during the rezoning approval process the city council may require additional setbacks if it is determined that such setback is necessary to provide adequate open space, access to light and air, a healthful living environment, prevent visual obstruction of adjoining properties, or to ensure compatibility with existing adjacent development.
 - (1) *Front yard setback.* No minimum requirement. The front yard setback shall be established as shown on the approved MXD plans.
 - (2) *Side yard setback.* No setback required except that where a lot line abuts the lot line of a residentially zoned property, a setback shall be required which is at least equal to the minimum setback required in the district which the MXD abuts.
 - (3) *Rear yard setback.* No setback required except that where a lot line abuts the lot line of a residentially zoned property, a setback shall be required which is at least equal to the minimum setback required in the district which the MXD abuts.
- (d) *Public open space/civic space.* Formal and informal areas of usable outdoor open spaces are required. These serve as areas for community gatherings, landmarks, and as organizing elements for the neighborhood. Usable open space includes squares, plazas, greens, preserves, parks, and greenbelts.
- (e) *Vehicular and pedestrian network.* An interconnected network of pedestrian and bicycle facilities shall be integrated into the overall development and street design. The design of streets shall include adequate right-of-way to create safe and well-furnished pedestrian and bicycle corridors in the public streetscape. The following shall also apply:
 - (1) An interconnected network of streets shall be required. Dead-end streets, including cul-de-sac streets, are prohibited unless determined with the MXD plan approval that the most desirable plan requires laying out a dead-end street.
 - (2) The roadway designs used within the different areas of an MXD may vary depending on the proposed function of the roadway, the anticipated adjacent land uses, the anticipated traffic load, and appropriate accommodations for pedestrian and bicycle facilities as directed by the community development director. Streets in an MXD may be narrower than in conventional development, as well as more varied in size and form to control automobile traffic and give character to the district or neighborhood. A variety of unique and innovative roadway designs that lend character to the neighborhood and provide safe pedestrian and bicycle facilities are required.
 - (3) The streetscape design shall be consistent with city standards for mixed-use districts, and include sidewalks, landscaping and street trees, pedestrian lighting, and other pedestrian amenities and furnishings such as benches, trash receptacles, bicycle racks, and similar elements contributing to the character of the area.
 - (4) Residential driveway access from a lot to an alley or lane in an MXD is permitted and preferred. Driveway access from a lot to a street is permitted, subject to architectural design and setback

requirements detailed with development plan approvals. Where garage access is from the street, special architectural and setbacks are required to ensure the garage is not the dominant building feature.

(f) *Reserved.*

(g) *Vehicular and bicycle parking.* Off-street parking and loading requirements for each separate MXD planned mixed use district shall be as set forth in chapter 180 and chapter 195 unless otherwise modified by the ordinance granting the MXD.

- (1) *Required parking—Reductions.* The city council may reduce the parking and loading requirements set forth by chapter 180 after considering documentation and/or study provided by the applicant, staff's recommendation, and giving decisive weight to all relevant facts including, but not limited to the following factors: availability and accessibility of alternative parking; the availability of existing or planned transit services; the availability of bicycle parking; impact on adjacent residential neighborhoods; existing or potential shared parking arrangements; the characteristics of the use, including hours of operation and peak parking demand times; design and maintenance of off-street parking that will be provided; and whether the proposed use is new or a small addition to an existing use.
- (2) *Shared parking.* Shared or community parking areas shall be required. Off-street parking areas shall be small in scale and divided into surface parking lots not to exceed 50 parking spaces, unless otherwise approved by the city council.
- (3) *On-street parking.* On-street parking spaces on public and private streets may be counted towards the required off-street parking, provided the on-street spaces are located on an adjacent or internal street that allows on-street parking. Such on-street parking spaces must be identified on plans at the time of submittal to the city.
- (4) *Maximum parking.* Grade level parking allowed per use or per project shall not exceed the minimum parking required for such use. Any new parking facility with a capacity exceeding 200 spaces shall accommodate no more than 50 percent of the total parking at grade level.
- (5) *Parking location.* Surface parking shall be located behind and/or to the side of buildings. No parking areas shall be located between the front of a building and the street toward which the building faces. Unless otherwise approved by the city council, no open parking areas shall be located closer than 15 feet to a street right-of-way, or no closer than ten feet to a property line other than a street line. Parking areas within the building, or within a parking structure extending more than six feet above the finished grade, shall comply with the setback regulations of the main building.
- (6) *Parking lot screening.* All surface parking areas visible from the street right-of-way shall be screened with landscaping in combination with a low masonry wall or ornamental fence, and maintained to at least the average level of maintenance of the other developed property within the immediate neighborhood. Landscaping shall be located between the wall or fence and the public right-of-way, sidewalk, or boundary. Walls, fences, and landscaping shall not exceed three and one-half feet in height to adequately screen most vehicle headlights while maintaining clear visibility into and out of the parking area.
- (7) *Parking structures.* No parking structures shall have any façade on any public street, unless providing a liner building of retail, office, or residential use at the street level along the entire street frontage. All visible sides of parking structures shall be constructed with similar materials as the main building.
- (8) *Bicycle parking.* In order to encourage the use of bicycles, safe and convenient bicycle parking shall be required for development in the MXD. At least one bicycle parking space shall be

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required for each ten automobile parking spaces required in chapter 180. Bicycle parking must be provided by bicycle racks or lockers that are anchored so that they cannot be easily removed. Unless otherwise approved by city council, bicycle parking must be located within 50 feet of an entrance to the building.

- (h) *Service and loading areas.* All service and loading areas shall be entirely screened from view. Loading docks and overhead doors shall be incorporated into the building design and screened or located in a manner to not be visible from public streets.
- (i) *Signage.* Sign standards including the location, height, size, materials and design of all proposed signage shall be established by the MXD plans and set forth in the ordinance granting the MXD.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.161.060. Procedures.

The procedure for establishing an MXD shall follow the procedure for zoning amendments as set forth in section 7.100.060. In addition, the following information shall be submitted with each application:

- (a) Regulating plan (as described in subsection 7.161.020(a)).
- (b) Development standards and guidelines (as described in subsection 7.161.020(b)).
- (c) Building envelope standards (as described in subsection 7.161.020(c)).
- (d) Preliminary development plan. A tract of land may be zoned MXD only upon approval of a preliminary development plan. In addition, an approved final development plan shall be required for development in the MXD. The preliminary plan process shall be consistent with chapter 160 of this title.
- (e) Final development plan. Upon approval of the MXD preliminary development plan and the rezoning of the property by the city council, a final development plan for the project shall be prepared and submitted for recommendation by the planning commission. Permits for construction shall not be issued until final development plans have been reviewed and approved. It is the intent of this chapter that building permits and the development project, as constructed, shall conform to the approved final development plan. The final plan process shall be consistent with chapter 160 of this title.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 165. SPECIAL USE PERMITS

Sec. 7.165.010. Specific uses requiring permits; compliance generally with regulations.

Any of the following uses may be located in any district, if after public hearing and after consideration and recommendation by the planning commission, such use is approved by the city council and a special use permit issued by it, under such conditions as to operation, site development, parking, signs and time limit as may be deemed necessary in order that such use will not seriously injure the appropriate use of neighboring property, and will conform to the general intent and purpose of this title. Procedure and fees shall be as established by section 7.100.060. Such uses shall comply with the height and area regulations of the district in which they may be located, except that radio, television and microwave towers and drive-in theater screens may exceed such height regulation:

- (1) Cemeteries, mausoleums and crematoriums for disposal of the human dead.
- (2) Private clubs, including fraternal orders, golf courses and country clubs.

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- (3) Dancehalls, nightclubs and taverns.
 - (4) Boarding operations for animals.
 - (5) Golf driving ranges.
 - (6) Motels and motor hotels.
 - (7) Raising of livestock and poultry not complying with section 2.105.140.
 - (8) Reservoirs, wells, towers, filter beds or water supply plants.
 - (9) Private and riding stables and tracks.
 - (10) Sewage, refuse and garbage disposal landfills.
 - (11) Swimming pools, other than those used only in connection with a single-family dwelling or multifamily development.
 - (12) Buildings, structures and premises for public utility services, or public service corporations, which buildings or uses the council, after report to the planning commission, deems reasonably necessary for public convenience or welfare.
 - (13) Golf courses, baseball fields and other privately owned recreation areas.
 - (14) Nursery schools or preschools.
 - (15) Special driving instructional schools and training centers.
 - (16) Any other use whether or not specifically assigned to a particular district and generally required to be located in a district higher than that which is deemed appropriate by the city council may be located in a lower use district under the same guidelines, restrictions and procedures as the above uses.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 166. COMMUNICATIONS ANTENNAS AND SUPPORT STRUCTURES

Sec. 7.166.010. Purpose.

The general purpose of this chapter is to regulate the placement, construction and modification of telecommunications towers, support structures, and antennae in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace within the corporate boundaries of Gladstone. Specifically, this chapter is intended to:

- (1) Provide for the appropriate location and development of telecommunications facilities and systems to serve the citizens and businesses of the city;
- (2) Minimize adverse visual impacts of communications antennae and support structures through the use of careful design, siting, landscape screening and innovative camouflaging techniques;
- (3) Maximize the use of existing and new support structures so as to minimize the need to construct new or additional facilities;
- (4) Maximize the co-location of facilities on any new support structures and facilitate the fewest and least visible new structures capable of achieving these objectives;
- (5) Ensure that any new telecommunications tower or structure is located in an area compatible with the neighborhood or surrounding community to the extent possible;

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- (6) Ensuring that regulation of telecommunications towers and structures does not have the effect of prohibiting the provision of personal wireless services, and does not unreasonably discriminate among functionally equivalent providers of such service.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.166.020. General requirements.

The requirements set forth in this section shall be applicable to all telecommunications towers, antennae and other support structures installed, built or modified after the effective date of ordinance from which this chapter is derived to the full extent permitted by law.

- (1) *Principal or incidental use.* Antennae and support structures may be either a principal use in all zoning districts or an incidental use to institutional or nonresidential uses, subject to any applicable district requirement relating to yard or setback. An incidental use subject to a leasehold interest of a person other than the lot owner may be approved for a tower only if the leasehold area separately meets all requirements of access, parking, and lot size applicable to the primary use in the district in which the use is proposed.
- (2) *Building codes, safety standards, and zoning compliance.* To ensure the structural integrity of antenna support structures, the owner shall assure that it is constructed and maintained in compliance with all standards contained in applicable state and local building codes and the applicable standards published by the current Electronics Industries Association, as amended from time to time. In addition to any other approvals required by this section, no antenna, tower, or support structure shall be erected prior to receipt of a certificate of zoning compliance and the issuance of a building permit.
- (3) *Regulatory compliance.* All antennae and support structures shall meet or exceed current standards and regulations of the FAA, FCC and any other state or federal agency with the authority to regulate communications antennae and support structures. Should such standards or regulations be amended, then the owner shall bring such devices and structure into compliance with the revised standards or regulations within the time period mandated by the controlling agency. No approval for any placement, construction or modification of any antenna or structure permitted by this section shall be granted for any applicant having an uncured violation of this section, any zoning regulation regarding the lot on which the structure is proposed, or any other governmental regulatory requirement applicable to such antenna or structures within the city.
- (4) *Security.* All antennae and support structures shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any application to install, build or modify antennae or support structures. Additional measures may be required as a condition of the issuance of a building permit or administrative permit as deemed necessary by the director and city council in the case of a special use permit.
- (5) *Lighting.* Antennae and support structures shall not be lighted unless required by the FAA or other state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build or modify the antennae or support structure. Equipment cabinets and shelters may have lighting only as approved by the director or city council on the approved site development plan.
- (6) *Advertising.* Except for a disguised antenna support structure in the form of an otherwise lawfully permitted sign, the placement of advertising on structures regulated by this section is prohibited.
- (7) *Design.*

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- a. Subject to the requirements of the FAA or any applicable state or federal agency, towers shall be galvanized steel, or if painted, a neutral color consistent with the natural or built environment of the site.
 - b. Equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the site and shall also comply with any design guidelines as may be applicable to the particular zoning district in which the facility is located. All equipment shall be either placed underground, contained in a single shelter or cabinet, or wholly concealed within a building.
 - c. Support structures shall not exceed the height limitation of any airport overlay zone as may be adopted by the city or other regulatory agency, but may exceed underlying district height restrictions for buildings and structures, where shown to be necessary, provided that such height restrictions shall be considered by the city in determining the appropriateness of the design and location of the proposed structure under the standards for approval.
 - d. Antennae attached to a building or part of a disguised antenna support structure shall be of a color identical to or closely compatible with the surface to which they are mounted. All other antennae shall be designed to be disguised, or if otherwise permitted, maximally concealed on or within the support structure. Exposed antennae on "crow's nest" or other visible platforms are prohibited.
 - e. All towers shall be surrounded by a minimum six-foot high decorative wall constructed of brick, stone or comparable masonry materials and a landscape strip of not less than ten feet in width and planted with materials, which will provide a visual barrier to a minimum height of six feet. The landscape strip shall be exterior to any security wall. In lieu of the required wall and landscape strip, an alternative means of screening may be approved by the director, or by the city council in the case of a special use permit, upon demonstration by the applicant that an equivalent degree of visual screening will be achieved. Landscaping shall be required for disguised support structures if needed to implement an approved disguise.
 - f. All towers, disguised support structures, and related structures, fences and walls shall be separated from the property line of any adjacent property zoned for a residential use at least a distance equal to the height of the tower, and shall be separated from all other adjacent property lines at least a distance equal to one-half of the height of the tower or structure.
 - g. Vehicle or outdoor storage on any support structure site is prohibited, unless otherwise permitted by the zoning.
 - h. On-site parking for periodic maintenance and service shall be provided at all antenna or tower locations consistent with the underlying zoning district and the type of antenna or support structure approval granted.

(8) *Shared use.*

- a. *Existing support structures.* Prior to the issuance of any permit to alter or modify any tower existing on the effective date of this chapter, the owner shall provide to the city a written agreement committing to make said tower available for use by others subject to reasonable technical limitations and reasonable financial terms. Technical limitations regarding disguised support structures shall include limitations as are necessary to maintain the requirements of a disguised support structure. The willful and knowing failure of a structure owner to agree to shared use or to negotiate in good faith with potential users shall be unlawful and shall, among other remedies of the city, be cause for the withholding of future permits to the same owner to install, build, or modify antennae or support structures within the city.
- b. *Support structure inventories.* Prior to the issuance of any permit to install, build or modify any support structure, such applicant shall furnish the director an inventory of (1) all of that

applicant's and the proposed antenna user's (if the proposed antenna user is different from the applicant) support structures, and (2) all towers owned by any person, located within one and one-half miles of the proposed structure. The inventory shall include the structure or antenna reference name or number, the street location, latitude and longitude, structure type, height, type and mounting height of existing antennas and an assessment of available ground space for the placement of additional equipment shelters. Upon being modified, any disguised support structure designed for additional antennas and any tower, shall be placed on the multi-use interest area map for required collocation.

- c. *Shared use required—New support structures.* Any new support structure approved at a height of 60 feet AGL (above ground level) or higher shall be designed and constructed to accommodate at least one additional user unless a larger number is indicated by the response to the notification provisions herein. A written agreement committing to shared use as required by subsection one shall be submitted by the structure applicant. The willful and knowing failure of the owner of a structure built for shared use to negotiate in good faith with potential users shall be unlawful and shall be a violation of this chapter and, among other remedies of the city, shall be cause for the withholding of future permits to the same owner or applicant to install, build or modify antennae or support structures within the city. The director may waive this requirement for disguised support structures if the applicant submits a written request demonstrating that compliance cannot be achieved without violating one or more of the definitional requirements of a disguised support structure.
- d. *Communications tower multi-use area map.* Any new tower approved within a communication tower multi-use interest area as designated by the map of the same title, shall be designed and constructed to accommodate the number of users indicated by the plan to the extent feasible. The willful and knowing failure of the owner of a tower built for shared use to negotiate in good faith with potential users shall be a violation of this chapter and, among other remedies of the city, shall be cause for the withholding of future permits to the same owner to install, build or modify antennae or towers within the city.
- e. *Notice of tower applications.* Prior to any application for the construction of a new tower or disguised support structure, a copy of the application or a summary containing the height, design, location and type and frequency of antennae shall be delivered by certified mail to all known potential tower users within the city, including but not limited to all companies providing mobile wireless service in the city, and such other persons as may be identified on a schedule prepared and maintained by the director. Proof of such delivery shall be documented with the application to the city. The director may establish a form required to be used for such notifications and establish other procedures consistent with and as may facilitate compliance with this chapter. The director shall, before deciding on the application or forwarding it to the planning commission or council for review, allow all persons receiving notice at least 15 calendar days to respond to the city and the applicant that the party receiving notice be permitted to share the proposed tower or locate within one mile of such area. Where two or more parties seek to locate within one mile of each other, or such other distance as is demonstrated to the director to be reasonable pursuant to the objectives of this chapter, the director shall designate such area as a multi-use interest area on the map. The failure of the receiving party to use this process or respond to any such notice shall be considered cause for denying requests by such party for new towers or structures.
- f. *Appeal of shared use violations.* Any party seeking shared use of a support structure subject to this provision shall after responding to notice of an application, negotiate with the applicant for such use. The applicant may on a legitimate and reasonable business basis choose between multiple requests for shared use on the same tower or structure, and may reject any request where legitimate technical obstacles cannot be reasonably overcome or where the party

requesting shared use will not agree to reasonable financial terms. Any party believing that the applicant has breached its duty to negotiate in good faith for shared use shall immediately notify the applicant and the director in writing. The director may reject the application upon a finding that shared use has been improperly denied. A notice of breach of duty shall explain the precise basis for the claim and shall be accompanied by payment of an administrative review fee deposit of \$1,000.00 to the city to be used to offset the cost of review. After the applicant's receipt of the notice, the applicant shall have ten calendar days to provide a written submission to the director responding to the alleged violation of the shared use requirement. If deemed necessary by the director, he/she may engage, at the cost of the party alleging the violation, a neutral, qualified technical consultant to provide an opinion on feasibility or costs of the shared use request. If the director receives a notice alleging a violation of the shared use requirement, the time for a decision on an administrative permit is automatically extended for up to 30 days until the director has determined that the applicant has complied. An application for a new support structure shall not be deemed complete for acceptance until all information necessary for a decision on compliance has been provided by the applicant.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.166.030. Permitted uses.

The placement of antenna and towers are permitted in all zoning districts only as follows:

- (1) The attachment of additional or replacement complying antennae to any fully conforming support structure or tower provided that (1) additional equipment is located within the existing shelter, (2) no expansion of the compound area or increase in height occurs, and (3) all requirements of this chapter and the underlying zoning ordinance are met.
- (2) The mounting of antennae on any existing building or structure, such as a water tower, provided that the presence of the antennas is concealed by architectural elements or fully camouflaged and concealed by painting a color identical to the surface to which they are attached.
- (3) The mounting of antennae on or within any existing high-voltage electric transmission tower, but not exceeding the height of such tower by more than ten feet.
- (4) The installation of antennae or the construction of a tower or support structure on buildings or land owned by the city following the approval of a lease agreement by the city council.

Applications for uses authorized under this section shall be on forms as may be established by the director with such information as necessary to determine applicability of the specific permitted use and shall be accompanied by a building permit application and such application fees as may be established to reimburse the city its inspection and review costs.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.166.040. Authorization by administrative permit.

- (a) The placement of antenna and support structures are permitted in all zoning districts by administrative permit approved by the director only as follows:
 - (1) The attachment of additional or replacement antennae, cabinets or shelters to any nonconforming support structure existing on the effective date of this chapter or subsequently approved in accordance with these regulations and not satisfying the requirements for such attachment pursuant to section 7.166.030(1) as long the applicant provides documentation from which the director can reasonably

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determine that the application will bring the support structure (including ground equipment, and site) into conformance with this chapter to the maximum extent feasible. A "nonconforming support structure" shall be any support structure that does not comply with all of the requirements of this chapter, including but not limited to the general requirements herein and the requirements of the underlying zoning district.

- (2) The one-time replacement of any tower existing on the effective date of the ordinance from which this chapter is derived or subsequently approved in accordance with these regulations so long as the purpose of the replacement is to accommodate shared use of the site or to eliminate a safety hazard and the new structure otherwise complies with this chapter. The new tower shall be of the same type as the original except that a guyed or self-supporting (lattice) tower shall be replaced by a monopole. The height of the new tower may exceed that of the original by not more than 20 feet. Subsequent replacements shall require the approval of a special use permit.
 - (3) The construction of a disguised support structure provided that all related equipment shall be placed underground or concealed within the structure when the structure is located in any district other than a district authorizing industrial uses as a permitted use.
 - (4) The placement of dual polar panel antennae on wooden or steel functioning utility poles not to exceed 40 feet in height in any residentially zoned district and on any such poles (or functional replacement poles of no greater height) existing in any other district on the date of adoption of this chapter. All related equipment for antennae permitted by this subsection shall be wholly contained in an underground cabinet or vault.
 - (5) Towers erected and maintained for a period not to exceed 45 days for the purpose of replacing an existing tower, testing an existing or proposed network, or special events requiring mobile towers.
- (b) *Application procedures.* Applications for administrative permits shall be made on the appropriate forms to the director and accompanied by a deposit of \$2,500.00, or such other deposit amounts as may be established by the city council. The deposit shall be used to cover administrative costs and any telecommunications or other consulting fees or costs that the city may incur in review of the application. Any amount not used by the city shall be refunded to the applicant upon written request after a final decision. Applicant shall submit along with its completed application form:
- (1) A detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted indicating all existing and proposed improvements including buildings, drives, walkways, parking areas and other structures, public rights-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, hydrologic features, and the coordinates and height AGL of the existing or proposed tower.
 - (2) The application shall be reviewed by the director to determine compliance with the above standards and transmit the application for review and comment by other departments and public agencies as may be affected by the proposed facility.
 - (3) In reviewing an application, the director may require the applicant to provide additional information, including technical studies, and/or may require applicant to pay in addition to the cost of such studies if to be performed by the city, if reasonably necessary to assess whether the standards for approval are satisfied. An application shall not be deemed complete until satisfaction of all application requirements and submission of all requested information as provided herein.
 - (4) The director shall issue a decision on the permit within 45 days of the date a complete application has been received or the application shall be deemed approved unless the time period for review and action is extended in writing by the director or council for reasonable cause. The director may deny the application or approve the application as submitted or with such modifications as are, in his/her

judgment, reasonably necessary to protect the safety or general welfare of the citizens consistent with and to affect the purposes of this section. The director may consider the purposes of this section and the factors established herein for granting a special use permit as well as any other considerations consistent with the chapter. A decision to deny an application shall be made in writing and state the specific reasons for the denial.

- (5) Appeals resulting from the decision of the director shall be made to the board of zoning adjustment in writing not later than ten days after such decision.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.166.050. Special use permit required.

All proposals to install, build or modify an antenna or support structure not permitted by section 7.166.030 (permitted uses) or section 7.166.040 (administrative permit), shall require the approval of special use permit following a duly advertised public hearing by the planning commission and city council, subject to the following limitations.

- (1) *Applications.* Applications for special use permits shall be filed and processed subject to the requirements of and in the manner and time frame as otherwise established in the zoning code. A decision shall be accompanied by substantial evidence supporting the decision, which shall be made a part of the written record of the meeting at which a final decision on the application is rendered. Evidence shall be under oath and may be submitted with the application or thereafter presented during the public hearing by the applicant or others.
- (2) *Additional minimum requirements.* No special use permit shall be issued unless the applicant has clearly demonstrated by substantial evidence that placement of an antenna or support structure pursuant to section 7.166.030 (permitted uses) or section 7.166.040 (administrative permits) is not technologically or economically feasible. The city may consider current or emerging industry standards and practices, among other information, in determining feasibility.
- (3) *Findings required.* In addition to the determinations or limitations specified herein and by section 7.165.010 of the zoning code for the consideration of special use permits, no special use shall be approved by the city council unless findings in the affirmative are made that the following conditions exist:
 - a. That the proposed tower is not and cannot be located within a communications tower multi-use interest area as designated by such map, or if so located, meets the co-location requirements of this section.
 - b. No existing towers, structures or buildings within the necessary geographic area for the applicant's tower meet the applicant's necessary engineering requirements considering (1) height, (2) structural strength, (3) resulting signal interference, (4) feasibility of retrofitting, (5) feasibility of redesigning the applicant's tower network, or (6) other limiting conditions that render towers, structures or buildings within the applicant's required geographic area unsuitable.
 - c. That the design of the tower or structure, including the antennae, shelter and ground layout maximally reduces visual degradation and otherwise complies with the provisions and intent of this section. New towers shall be of a monopole design, unless it is shown that an alternative design would equally or better satisfy this provision.
 - d. That the proposal minimizes the number and/or size of towers or structures that will be required in the area. Where alternate technology or design exists or is reasonably available that would satisfy the general need for the proposal, this factor is ordinarily not satisfied.

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- e. That the applicant has not previously failed to take advantage of reasonably available shared use opportunities or procedures provided by this chapter or otherwise.
 - f. That no land owned by any agency of the federal or state government, or by any political subdivision of the state, is available for locating the structure or tower.
 - g. The city may require, at the expense of the petitioner, any additional studies or the hiring of an external consultant, including technical and legal services, to review exhibits and/or other requirements in accordance with this section.

Provided, that if one, but not more than one, of the first six determinations is not satisfied, approval may be granted only on a finding of unique circumstances otherwise necessitating approval to satisfy the purposes of this section.

- (4) *RF engineer certification required.* Applications for a new tower structure shall be considered only after a letter, certified by a radio frequency engineer under oath, stating that the planned telecommunication equipment cannot be accommodated on an existing or already approved transmission tower and providing facts (including (1) all alternatives considered and (2) precise cost estimates where cost is a basis for the determination) clearly demonstrating one or more of the following conditions:
 - a. Planned telecommunications equipment would exceed the structural capacity of an existing or approved transmission tower, and the transmission tower cannot be reinforced to accommodate planned telecommunication equipment at a reasonable cost;
 - b. Planned telecommunications equipment will cause radio frequency interference with other existing or planned telecommunications equipment for that transmission tower and the interference cannot be prevented at a reasonable cost;
 - c. Existing or approved towers do not have space on which the planned telecommunications equipment can be placed so it can function effectively and at least in parity with other similar telecommunications equipment in place or approved by the City and Kansas City, Missouri or other area jurisdictions; or
 - d. Other reasons that make it impractical and not feasible to place the telecommunications equipment planned by the applicant on an existing and approved transmission tower.
- (5) *Additional height limitations.* No tower shall be approved at a height exceeding 150 feet AGL unless the applicant clearly demonstrates that such height is required for the proper function of the applicant's system or that of a public safety communications system of a governmental entity sharing the tower. Such showing must also be supported by the opinion of a telecommunications consultant hired by the city at the expense of the applicant. The opinion of the consultant shall include a statement that no available alternatives exist to exceeding the height limit or the reason why such alternatives are not viable.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.166.060. Obsolete noncomplying tower structures.

Any upper portion of a tower which is not occupied by active antennae for a period of 12 months, and any entire tower which is not so occupied for a period of six months, shall be removed at the owner's expense. Removal of upper portions of a tower manufactured as a single unit shall not be required. Failure to comply with this provision shall constitute a nuisance that may be remedied by the city at the tower or property owner's expense. Any applicant for a new tower or disguised structure not built as disguised part of another existing or permitted structure shall place a bond or other security with the city prior to any final approval for the purpose of

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removing any tower or disguised structure as required herein and to compensate the city for performing proper maintenance of such towers or disguised structures to ensure such structures do not become unsafe or otherwise fail to be maintained in compliance with this chapter. The bond or security shall be in the form approved by the community development department, and in the amount of \$15,000.00, or such other amount as is determined by the director to satisfy the requirements hereof with regard to the specific tower or structure to which it would apply.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.166.070. Commercial operation of unlawful tower or antennae.

Notwithstanding any right that may exist for a governmental entity to operate or construct a tower or structure, it shall be unlawful for any person to erect or operate for any private commercial purpose any antenna, tower or disguised support structure in violation of any provision of this chapter, regardless of whether such antenna or structure is located on land owned by a governmental entity.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.166.080. Penalty.

Any person violating this provision shall be subject to a fine of not more than \$500.00 or 90 days in jail or both. Each day the violation continues shall constitute a separate offense.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.166.090. Definitions.

As used in this section, the following terms shall have the meanings and usages indicated:

AGL means above ground level. Ground level shall be determined by the average elevation of the natural ground level within a radius of 50 feet from the center location of measurement.

Antenna means any device that transmits and/or receives radio waves for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, microwave, cellular telephone and similar forms of communications. The term shall exclude satellite earth station antennae less than two meters in diameter (mounted within 12 feet of the ground or building-mounted) and any receive-only home television antennae.

Cabinet means a structure for the protection and security of communications equipment associated with one or more antennae where direct access to equipment is provided from the exterior and that has horizontal dimensions that do not exceed four feet by six feet, and vertical height that does not exceed six feet.

Communication tower multi-use interest area means an area as designated by the map of the same title indicating general locations in which more than one wireless service provider may potentially seek to locate an antenna facility and in which the construction of co-locatable towers will be required. The map may be periodically revised in response to new information received regarding tower sites sought by wireless providers. A multi-use interest area shall be designated as appropriate for towers within one mile of each other, unless the applicant demonstrates to the contrary. The multi-use interest area map shall include the area within the city limits and within one and one-half miles of its corporate boundaries.

Director means the community development director of the city or his/her designee.

Disguised support structure means any free-standing, man-made structure designed for the support of antennae, the presence of which is camouflaged or concealed as an appropriately-placed and designed architectural or natural feature. Depending on the location and type of disguise used, such concealment may require placement underground of the utilities leading to the structure. Such structures may include but are not limited to clock towers, campaniles, observation towers, light standards, flag poles and artificial trees. For purposes of this definition, a structure "camouflaged or concealed as an appropriately-placed and designed architectural or natural feature" shall meet the following additional criteria means (1) it is consistent with, contributes to, and does not detract from the character and property values and use of the area and neighborhood in which it is located, (2) it does not contain distorted proportions, size, or other features not typically found on the type of structure or feature to which it is designed to replicate, (3) it cannot be identified as an antenna support structure by a person with reasonable sensibilities and knowledge, (4) its equipment, accessory buildings, or other aspects or attachments relating to the disguised support structure are wholly concealed using a manner consistent with and typically associated with the architectural or natural structure or feature being replicated, and (5) it is of a height, design and type that would ordinarily occur at the location and neighborhood selected.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means the vertical distance measured from the average grade of the base of the structure at ground level to its highest point and including the main structure and all attachments thereto.

Incidental use means any use authorized herein that exists in addition to the principal use of the property.

Modification means any addition, deletion, or change, including the addition or replacement of antennae, or any change to a structure requiring a building permit or other governmental approval.

Shelter means a building for the protection and security of communications equipment associated with one or more antennae and where access to equipment is gained from the interior of the building. Human occupancy for office or other uses or the storage of other materials and equipment not in direct support of the connected antennas is prohibited.

Support structure means a tower or disguised support structure.

Tower means a structure designed for the support of one or more antennae and including guyed towers, self-supporting (lattice) towers or monopoles but not disguised support structures or buildings. The term shall also not include any support structure including attachments of 65 feet or less in height owned and operated solely for use by an amateur radio operator licensed by the Federal Communication Commission.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 167. ALTERNATIVE ENERGY SYSTEMS

Sec. 7.167.010. Small wind energy conversion system—Allowed use.

- (a) *Generally.* The small wind energy conversion system (SWECS) shall not be considered an accessory use under title IX, Building and Construction Ordinance (BACO), chapter 2300, detached accessory structures and shall comply with all requirements under section 7.167.020. Small wind energy conversion systems not meeting the performance standards of section 7.167.020 may be allowed by a special use permit following a duly noticed and published public hearing. The community development director, for a small wind energy conversion system, may waive the fees for a special use permit application. Publicly owned property, such as city parks, buildings, and school institutions are excluded from the performance standards in section 7.167.020.

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- (b) *Administrative process.* The following items shall be submitted in support of an application for building permit for either (a) micro or (b) small wind turbine(s):
- (1) A plot plan, utilizing a standard engineering scale not to exceed 1:100, indicating the placement of the wind turbine(s) and distances from the proposed turbine location and the nearest built structure, any above ground utilities, the nearest trees, and all property lines. A fall zone shall be indicated on the plan to approximate the area around the base of the turbine that would likely receive the tower and turbine if it were to fall and shall be approved by the city building official.
 - (2) Turbine information: specific information on the type, model, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each wind turbine being proposed, tower and electrical transmission equipment.
 - (3) Data in sufficient detail to allow for a determination that the proposed WECS shall meet all the standards of this chapter.
 - (4) Drawings of the wind turbine structure, including the tower, base, and footings. In addition, an engineering analysis of the tower showing compliance with the International Building Code certified by a licensed professional engineer.
 - (5) Building permit applications for micro or small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the adopted National Electrical Code (NEC). All building permits require installations to be designed and sealed by an engineer licensed in the State of Missouri, designs shall include structural analysis.
 - (6) For compliant SWECS, permit fees may be waived.
- (c) *Special use permit process.* The following items shall be submitted in support of a special use permit application for (a) large/utility scale wind turbine(s):
- (1) All plan submission requirements of title VII, Zoning and Planning Ordinance (ZAPO).
 - (2) The site plan shall include the distance from the proposed turbine location and the nearest built structure, any above ground utilities, the nearest tree(s), and all property lines.
 - (3) The proposed location and design of the wind facility, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.
 - (4) Turbine information: specific information on the type, model, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each wind turbine being proposed, tower, and electrical transmission equipment.
 - (5) A noise study, prepared by a qualified professional, shall demonstrate that except for short-term events such as utility outages and severe windstorms, the large/utility scale wind turbine shall not produce noise in excess of 55 dbA at the property lines. The noise study shall include:
 - a. A description and map of the project's noise producing features, including the range of noise levels expected, and the basis for such expectations.
 - b. A description and map of the noise sensitive environment, including any sensitive noise receptors (e.g., residences, hospitals, libraries, schools, places of worship, parks, areas with outdoor workers and other facilities where quiet is important or where noise could be a nuisance) within 1,000 feet.
 - c. A survey and report prepared by a qualified engineer that analyzes the pre-existing ambient noise (including seasonal variation) and the affected sensitive receptors located within 1,000 feet.

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- d. A description and map of the cumulative noise impacts.
 - e. A description of the project's proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive receptors as identified above to a level of insignificance.
- (6) *Soil.* A geotechnical report shall be furnished along with the certification which shall, at a minimum, include the following:
- a. Soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing.
 - b. Foundation design criteria for all proposed structures.
 - c. Slope stability analysis.
 - d. Grading criteria for ground preparation, cuts and fills, and soil compaction.
- (7) *Shadow/flicker.* A shadow/flicker model shall demonstrate that shadow/flicker shall not fall on, or in any existing residential structure. The shadow/flicker model shall:
- a. Map and describe within a 1,000-foot radius of the proposed wind energy system the topography, existing residences and location of their windows, locations of other structures, wind speeds and directions, existing vegetation and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speed;
 - b. Calculate the locations of shadow/flicker caused by the proposed project and the expected durations of the shadow/flicker at these locations, calculate the total number of hours per year of shadow/flicker at all locations;
 - c. Identify problem areas where shadow/flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including, but not limited to, a change in siting of the wind energy conversion system, a change in the operation of the wind energy conversion system, or grading or landscaping mitigation measures.
- (8) *Use of MET (meteorological) towers.* Met towers may be utilized for large or utility scale wind turbines only as approved by the city council. The location, height, and length of time such structures are to be erected shall be provided as part of the application for preliminary development plan and special use permit.
- (9) *Impact on wildlife.* A study shall be provided by a professional that demonstrates that the development and operation of the wind turbine(s) in question shall not have an adverse impact on endangered or threatened avian or bat species and their critical habitats.
- (10) *Additional information.* The director, commission, or city council may require additional technical studies deemed necessary to fully evaluate the application. Should the services of an outside consultant be needed to evaluate any such technical studies, the cost of such services shall be borne by the applicant.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.167.020. Same—Requirements.

Small wind energy conversion systems (SWECS) may be permitted in all zoning districts subject to the following requirements:

- (1) *Setback.* The base of the tower shall be set back from all property lines, structures, public right-of-ways, and public utility lines a distance equal to the total extended height, not to exceed two times the

maximum allowable height restrictions in all zoning districts. Only one wind turbine structure shall be allowed per lot in either a residential or commercially zoned property.

(2) *Micro and small WECS.*

- a. *Location.* All micro and small wind turbines shall be located in the rear yard only. Exceptions to this standard for small wind turbines may only be reviewed as part of the special use permit application.
- b. *Utility notification.* No building permit for a micro or small WECS shall be issued until a copy of the utility company's approval for interconnection of a customer-owned (SWECS) generator has been provided. Off-grid systems shall not be permitted, unless by special use permit approval.
- c. *Due to public health and safety concerns,* facilities that use alternative energy systems exclusively for all power needs, and are not connected to a public power source or "grid" for any purpose, (known as "off-grid" systems), shall not be permitted, unless a special use permit is approved in accordance with this chapter.

(3) *Roof-mounted wind turbines.* Maximum height shall be equal to half the height of the building being utilized for support. The minimum setback for all roof top turbines shall be equal to the height of the tower from all property lines and any buildings.

(4) *Minimum blade clearance.* The blade tip clearance for micro wind turbines shall, at its lowest point, have a ground clearance of not less than 15 feet. The minimum blade clearance for any other wind turbine shall be 30 feet.

(5) *Color/finish.* Wind turbines, exclusive of the towers, shall be painted a nonreflective, nonobtrusive color such as the manufacturer's default color option or a color that conforms to the environment and architecture of the community. Towers shall maintain galvanized steel, brushed aluminum or white finish, unless FAA standards require otherwise.

(6) *Sound.* Sound produced by the turbine under normal operating conditions, as measured at the property line, shall not exceed the definition of nuisance noise. Sound levels, however, may be exceeded during short-term events such as utility outages, severe wind storms, or other causes outside the control of the property owner.

(7) *Wind turbine equipment.* Small wind turbines must have been approved under the state public benefits program or any other small wind certification program recognized by the American Wind Energy Association.

(8) *Wind turbine maintenance.* The owner of a wind turbine shall complete all necessary maintenance and improvements to the structure if it is determined to be inoperable or hazardous to neighboring properties.

(9) *Requirement for engineered drawings.* Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer.

Wet stamps shall not be required.

(10) *Soil studies.* For standard soil conditions (not including gravel, sand, or muck), foundations developed by the wind turbine manufacturer shall be acceptable for turbine installations of 20 kW or less and will not require project-specific soils studies or an engineer's wet stamp.

(11) *Compliance with FAA regulations.* No SWECS shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.

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- (12) *Compliance with National Electric Code.* Building permit applications for SWECS shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 - (13) *Utility notification.* No SWECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected (SWECS) customer-owned generator.
 - (14) *Electrical wires.* All electrical wires associated with a wind energy system shall be located underground.
 - (15) *Self-supporting structures.* All tower structures shall be of monopole construction unless attached to a structurally reinforced roof where such support is not warranted. No lattice structures or towers requiring a guy wire supports shall be permitted.
 - (16) *Safety shutdown.* Each wind turbine shall be equipped with both manual and automatic overspeed controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No wind turbine shall be permitted that lacks an automatic braking, furling, or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades, and turbine components.
 - (17) *Abandonment.* If a wind turbine is determined to be inoperable the current property owner shall be notified that they must, within six months of receiving the notice, restore their system to operating condition or the property owner shall, at his/her expense, remove the wind turbine and tower for safety reasons. If the owner(s) fails to restore their system to operating condition within the six-month period, the tower then would be subject to the public nuisance provisions of the zoning code.
 - (18) *Signage.* All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.
 - (19) *Lighting.* No illumination of the turbine or tower shall be allowed unless required by the FAA.
 - (20) *Access.* Any climbing foot pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.167.030. Requirements for active solar energy systems.

Active solar energy systems shall not be considered an accessory use under title IX, Building and Construction Ordinance (BACO), chapter 2300, detached accessory structures, and shall comply with all requirements as set forth below.

- (1) *Height.* Solar systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices.
- (2) *Setback.* Active solar systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located.
 - a. *Roof-mounted solar systems.* In addition to the building setback, the collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

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- b. *Ground-mounted solar systems.* Ground-mounted solar energy systems may extend into the side-yard or rear setback provided that no exposed electrical components, wires, or devices other than the solar collector are at any time within nine feet of the property line. No ground-mounted solar system shall be allowed in an approved easement. In all cases the entire system must maintain a one-foot setback from the property line.
- (3) *Visibility.* Active solar systems shall be designed to blend into the architecture of the building or be screened from routine view from public right-of-ways other than alleys. The color of the solar collector is not required to be consistent with other roofing materials except in those instances when a special use permit is required consistent with the provisions of this chapter, all active solar systems shall be consistent with any approved deed restrictions and covenants.
- a. *Building integrated photovoltaic systems.* Building integrated photovoltaic solar systems shall be allowed regardless of visibility, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.
 - b. *Solar systems with mounting devices.* Solar systems using roof mounting devices or ground-mount solar systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way other than an alley. Roof-mount systems that are visible from the nearest edge of the street frontage right-of-way shall not have a highest finished pitch more than 20 percent steeper than the roof pitch on which the system is mounted. Systems with a pitch more than 20 percent greater than the finished roof pitch must acquire a special use permit.
- (4) *Approved solar components.* Electric solar system components must have a UL listing.
- (5) *Plan approval required.* All solar systems shall require administrative plan approval by the community development department.
- (6) *Plan applications.* At the discretion of the building official, plan applications for solar systems may be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.
- a. *Pitched roof mounted solar systems.* For all roof-mounted systems other than a flat roof the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
 - b. *Flat roof mounted solar systems.* For flat roof applications a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.
- (7) *Plan approvals.* Applications that meet the design requirements of this chapter, and do not require a special use permit, shall be granted administrative approval by the community development department. Plan approval does not indicate compliance with building code and electric code or approval by the building official.
- (8) *Compliance with building code.* All active solar systems shall meet approval of local construction codes.
- (9) *Utility notification.* No grid-intertie photovoltaic system shall be installed until evidence has been presented to the community development department that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall not be permitted, unless by special use permit approval.

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- a. Due to public health and safety concerns, facilities that use alternative energy systems exclusively for all power needs, and are not connected to a public power source or "grid" for any purpose, (known as "off-grid" systems), shall not be permitted, unless a special use permit is approved in accordance with this chapter.
 - (10) *Special use permit.* Where the standards in section 7.167.030 are not met, active solar energy systems shall be considered by a special use permit request. The following conditions shall govern approval of a special use permit application for an active solar energy system. The community development director, for active solar energy systems, may waive the fees for a special use permit application.
 - (11) *Standards for solar system special use permits.* When a special use permit is required, the permit may be granted if the applicant demonstrates that the following safety and aesthetic conditions are met:
 - a. *Aesthetic conditions.* The solar system must blend into the building on which the system is mounted by being sufficiently set back from public right-of-ways or screened from view from the right-of-way, or by using a surface collector color that blends into the roof or wall of the building as seen from the public right-of-way.
 - b. *Safety conditions.* The solar system must be anchored in such a manner as to withstand windspeeds up to 90 mph, and must be set back from adjoining properties far enough to not present a threat to accidental contact with electrical components, but in any case no farther than the building setback.
 - (12) *Pole-mounted systems restricted.* Pole-mounted or ground-mounted active solar systems shall not be allowed in residential districts between the front of the building and the front public right-of-way.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 168. MEDICAL MARIJUANA

Sec. 7.168.010. Medical marijuana.

No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or transportation facility shall be constructed, altered, or used without complying with the following regulations:

- (1) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or transportation facility shall be initially sited within 750 feet of any then-existing school, child daycare center, or church or within 150 feet of any building containing a residential unit or single family home. Measurements shall be made in a straight line, without regard to intervening structures, from the nearest point of the property line of a school, child daycare center, church, or building containing a residential unit or single family home to the nearest point of the property line containing the medical marijuana business.

For purposes of this section,

- 1. A "daycare" means a child-care facility, as defined by RSMo 210.201, that is licensed by the state of Missouri.
- 2. A "elementary or secondary school" means any public school as defined in RSMo 160.011, or any private school giving instruction in a grade or grades not higher than the 12th grade, including any property owned by the public or private school that is regularly used for extracurricular activities, but does not include any private school in which education is primarily conducted in private homes.

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3. A "church" means a permanent building primarily and regularly used as a place of religious worship.
 4. "Then existing" means any school, daycare, or church with a written building permit from the city to be constructed, or under construction, or completed and in use at the time the marijuana facility first applies for either zoning or a building permit, whichever comes first.
- (2) Outdoor operations or storage prohibited. All marijuana facilities' operations and all storage of materials, products, or equipment shall be within a fully enclosed building.
 - (3) Onsite usage prohibited. No marijuana may be smoked, ingested, or otherwise consumed on the premises of a marijuana facility.
 - (4) Hours of operation. All marijuana facilities shall be closed to the public, no persons not employed by the business shall be on the premises, and no sales or distribution of marijuana shall occur upon the premises or by delivery from the premises between the hours of 10:00 p.m. and 7:00 a.m.
 - (5) Residential dwelling units prohibited. No medical marijuana business shall be located in a building that contains a residence.
 - (6) A medical marijuana testing facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or transportation facility shall be entirely within an enclosed building.
 - (7) Ventilation required. All marijuana facilities shall install and operate a ventilation system that will prevent any odor of marijuana from leaving the premises of the business. No odors shall be detectable by a person with a normal sense of smell outside the boundary of the parcel on which the facility is located.
 - (8) Security requirements. All marijuana facilities shall comply with all security requirements set forth and approved by department of health and senior services.
 - (9) Signage (outside/inside). A sign master plan shall be submitted and approved by city staff in accordance with chapter 1600—Signs.
 - (10) Occupancy inspection required. All new marijuana facilities shall obtain a certificate of occupancy prior to operation.
 - (11) Lighting (indoor/outdoor). All lighting shall be energy efficient (LED) and in accordance with chapter 181—Outdoor lighting.

(Ord. No. 4.487, § 3, 8-12-2019)

CHAPTER 170. NONCONFORMING USES

Sec. 7.170.010. Continuation—Preexisting land uses.

A nonconforming use of land existing lawfully at the time of the passage of the ordinance from which this title is derived may be continued, but shall not be extended, expanded or enlarged.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.170.020. Same—Lots containing no permanent building designated for nonconforming use.

A nonconforming use of a lot containing no permanent building designated for a nonconforming use shall not be continued beyond the period ending two years from the adoption of the ordinance from which this title is derived.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.170.030. Same—Buildings.

The lawful use of a building existing at the time of the passage of the ordinance from which this title is derived may be continued, although such use does not conform to the provisions hereof, and such use may be extended throughout such portions of the building as are arranged or designed for such use, provided no structural alterations, except those required by law or ordinance, are made therein. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification. If such nonconforming building is removed, the future use of such premises shall be in conformity with the provisions of this title.

Sec. 7.170.040. Reestablishment of discontinued uses; changes to less restricted uses; transfers to more restricted districts.

- (a) When a nonconforming use has been discontinued for six months or more, it shall not be reestablished.
- (b) A nonconforming use, if changed to a conforming use, or more restricted nonconforming use, may not thereafter be changed back to a less restricted use than that to which it was changed. If, by amendment to this title, any property is hereafter transferred to a more restricted district by a change in the district boundaries, or the regulations and restrictions in any district are made more restrictive, or of a higher classification, the provisions of this title relating to the nonconforming use of buildings or premises existing at the time of the passage of the ordinance from which this title is derived shall apply to buildings or premises occupied or used at the time of the passage of such amendment.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.170.050. Buildings—Repairs and alterations permitted; exception.

Repairs and alterations may be made to a nonconforming building, provided that no structural alterations or extension shall be made, except those required by law or ordinance, unless the building is changed to a conforming use; provided that the board of zoning adjustment, in the case of evident hardship, may grant an extension of a nonconforming use not exceeding 25 percent of the ground area of the building.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.170.060. Same—Completion and restoration generally; effect of provisions on plans filed in accordance with earlier laws.

- (a) Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued, or for which plans have been filed with the community development director no more than one year prior to the passage of the ordinance from which

this title is derived, and the construction of which in either case shall have been diligently prosecuted within one year of the date of passage of the ordinance from which this title is derived.

- (b) Nothing in this title shall be taken to prevent the restoration, within 12 months, of a nonconforming building destroyed to the extent of not more than 75 percent of its value (exclusive of foundations), by fire, explosion or other casualty, act of God or the public enemy; provided that, when such restoration becomes involved in litigation, the time required for such litigation shall not be counted as a part of the 12 months allowed for reconstruction; and nothing in this title shall be taken to prevent the continued occupancy or use of such building or part thereof which existed at the time of such partial destruction, but any building so damaged more than 75 percent of its value may not be rebuilt, repaired or used unless it is made to conform to all regulations for buildings in the district in which it is located.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 175. HEIGHT, YARD AND AREA EXCEPTIONS AND ADDITIONAL REQUIREMENTS

Sec. 7.175.010. Generally.

The regulations and requirements as to height of buildings and area of lots which may be occupied by buildings, front yards, side yards and rear yards, and other regulations and requirements in the foregoing sections of this title, shall be subject to the exceptions and additional regulations set forth in this chapter.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.175.020. Height.

- (a) In any district, public or semipublic buildings, such as hospitals, hotels, places of worship, sanitariums or schools, either public or private, where permitted, may be erected to a height not exceeding 75 feet; provided that such buildings shall have yards, the depth or width of which shall be increased one foot on all sides for each additional foot that such buildings exceed the specified height limit as established by the regulations of the district in which such buildings are situated.
- (b) Dwellings in district R-1 or R-2 may be increased in height not exceeding ten feet in addition to the limitations of two and one-half stories, or 35 feet, as prescribed in such districts, provided that two side yards of not less than 15 feet in width, each, are provided. However, in no case shall such dwelling exceed three stories in height.
- (c) Parapet walls and false mansards shall not extend more than six feet above the height limit. Flagpoles, chimneys, cooling towers, electric display signs, elevator bulkheads, penthouses, finals, gas tanks, grain elevators, stacks, storage towers, radio towers, ornamental towers, monuments, cupolas, domes, spires, standpipes and necessary mechanical appurtenances may be erected as to height, in accordance with existing or hereafter adopted ordinances of the city council; provided that written approval for such construction is given by the Federal Aviation Administration, if required.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.175.030. Yards.

- (a) The minimum front and rear yard requirements on all residential lots abutting streets which are designated as thoroughfares on the thoroughfare plan of the city, which streets contain the right-of-way required by such plan, shall be reduced to the following:
 - (1) Front yards abutting a 70- or 80-foot right-of-way shall be 30 feet. Those abutting a 60-foot right-of-way shall be 35 feet.
 - (2) Rear yards on lots abutting a 70-foot or 80-foot right-of-way shall be 25 feet. Those abutting a 60-foot right-of-way shall be 30 feet.
- (b) Every part of a required yard or court shall be open from its lowest point to the sky unobstructed except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves; provided that none of the above projections shall extend into a court more than six inches, nor into a minimum yard more than 36 inches; and provided further that in districts R-1—R-4, inclusive, canopies or open porches having a roof area not exceeding 60 square feet may project a maximum of six feet into the required front or rear yard. Additionally, unenclosed porches or decks may extend up to ten feet into the required front yard setback (exclusive of stairs) and 15 feet into the required rear yard setback (exclusive of stairs).
- (c) An open fire escape may project into a required side yard not more than half the width of such yard, but not more than four feet from the building. Fire escapes, solid-floored balconies, and enclosed outside stairways may project not more than four feet into the rear yard.
- (d) On any lot, no topographical grade, wall, fence, sign, or other structure, nor plant growth of any type, which would interfere with visibility shall be permitted or maintained higher than three feet above the adjacent curb level, within 15 feet of the street right-of-way lines.
- (e) In any district where lots comprising 40 percent or more of the frontage on the same side of the street between two intersecting streets are developed with buildings having varying distance of setback, the average of such existing setback shall determine the minimum setback for the remainder of the frontage.
- (f) Yard lines of subdivisions platted in compliance or ordinances prior to August 23, 1965, shall be as then stipulated.
- (g) No parking shall be permitted in the required front yards except in driveways of single-family and two-family dwellings and relating to the garage or carport. Parking shall be located entirely on private property with no portion except the necessary drives extending into any yard, street, or other public way unless specifically allowed.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 180. OFF-STREET PARKING AND LOADING REGULATIONS

Sec. 7.180.010. Districts R-1, R-P-1, RCH-1, R-2 and R-P-2.

For all dwellings hereafter erected, constructed, reconstructed or altered in districts R-1, R-P-1, RCH-1, R-2, and R-P-2, provision in the form of garages, carports or open parking areas shall be made for the parking of motor passenger vehicles for the use of occupants. Such parking areas shall be surfaced with at least three inches of Portland cement concrete or equivalent. Such parking shall provide space for two vehicles for each dwelling unit. Each parking space shall contain at least 8.5- by 20-foot dimensions and necessary maneuvering space shall be

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provided. Parking areas within a required side yard setback shall direct the flow of water away from the side lot line.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.180.020. Districts R-3, R-P-3, R-4 and R-P-4.

For all apartment houses, multiple dwellings or apartment hotels hereafter erected, constructed, reconstructed or altered, provision in the form of garages, carports or open parking areas shall be made for parking of motor vehicles for the use of occupants and visitors. Such parking space shall provide two spaces for each dwelling unit.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.180.030. Hotels, motels, fraternity and sorority houses, dormitories, lodginghouses or clubs.

For all hotels, motels, fraternity or sorority houses, dormitories, lodginghouses and clubs hereafter erected, constructed, reconstructed or altered, provision in the form of garages or open parking areas shall be made for the parking of automobiles for the use of occupants, patrons or members. One parking space shall be provided for each individual guest room or suite; provided that any restaurant connected therewith shall require one additional parking space for each three patron seats.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.180.040. Hospitals or institutions.

For all hospitals and institutions hereafter erected, constructed, reconstructed or altered, provision in the form of open parking of motor passenger vehicles shall be made as follows: One parking space shall be provided for each three beds, plus one space for each staff member and employee on duty at any time. Such parking shall be either on the premises or within 300 feet on land zoned for business or industry, or on a site approved by the board after a public hearing.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.180.050. Places of assembly.

For every structure or part thereof hereafter erected, constructed, reconstructed or altered, to be used as a theater, auditorium, place of worship, stadium or other place of public assembly, there shall be provided and maintained accessible off-street parking spaces for motor passenger vehicles on the basis of one vehicle for each three seats of the total audience seating capacity of the building, structure or part thereof; such parking shall be located on the same lot with such building, structure or part thereof, or within 300 feet thereof, on land zoned for business or industry, or on a site approved by the board after a public hearing.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.180.060. Business or industrial buildings.

Any business buildings hereafter erected, constructed, reconstructed, moved or altered shall provide accessible off-street parking at a rate of one parking space for each 240 square feet of service floor area in the

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building up to a maximum rate of one parking space for each 200 square feet of service floor area in the building. For all industrial buildings, hereafter erected, converted or extended in district M-1, provision shall be made for off-street parking at the rate of one parking space for each employee, such parking space to be on the same lot with the main building, or within 300 feet therefrom, on land zoned for business or industry. Any parking exceeding the minimum prescribed rate stipulated herein shall be constructed with permeable materials as approved by the community development director.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.180.070. Improvement of parking areas.

All open parking areas as provided in sections 7.180.010—7.180.060, inclusive, shall be curbed and surfaced with at least three inches of Portland cement concrete or equivalent. Ingress and egress shall be only by way of paved driveways or openings not exceeding 40 feet in width. Each parking space shall be not less than eight and one-half feet by 20 feet in size plus the necessary maneuvering space. Any lights used to illuminate such parking areas shall be so arranged as to direct light away from any adjoining premises located in districts R-1—R-4, inclusive, and no signs of any kind shall be erected, except for those necessary for the orderly parking thereon. All required improvements shall be completed within six months of completion of the building.

A landscape plan shall also accompany any site plan that includes parking improvements. Inverted landscaping islands of similar size as a standard parking space shall be constructed at the rate of one island per ten parking spaces. Such islands shall be planted with native vegetation, at least one approved tree as stipulated by the city tree list, and shall have curb inlets that allow for the collection of stormwater runoff. Additional low-impact design considerations are encouraged.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.180.080. Loading spaces required for business, industries, etc.

Any business or industrial building, hospital, institution or hotel hereafter erected, constructed, reconstructed or altered in any district shall provide adequate off-street facilities for the loading and unloading of merchandise and goods within or adjacent to the building, in such a manner as not to obstruct freedom of traffic movement on the public streets, alleys or sidewalks.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.180.090. Parking of trucks prohibited; exceptions; penalty.

The word "truck," as used in this section, shall mean a motor vehicle designed or regularly used for carrying freight or merchandise. Subject to the exceptions herein noted, no trucks larger than three-quarter ton shall be parked on any premises which are zoned R-1 to C-O inclusive. This section shall not prohibit the making of bona fide deliveries to premises zoned as indicated, but such trucks shall be identified by a placard or sign clearly visible and reading "Delivery in progress." Neither shall this provision apply to trucks which are parked within an enclosed garage, to construction trucks when construction work is actually in progress in connection with the premises where such truck is parked, nor to trucks on the premises in connection with any emergency. This section shall not apply to any truck the use of which is necessary in connection with an existing valid and legal nonconforming use so long as such use continues to be lawful. Any truck parked within an enclosed structure or more than 100 feet from the nearest property line of a person other than the owner of such truck shall not be considered in violation of this section. A violation of this section shall carry a fine of not less than \$5.00 and not more than \$100.00. Each day that any violation continues shall be considered a separate offense.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 181. OUTDOOR LIGHTING

Sec. 7.181.010. Purpose.

The purpose of this chapter is to regulate outdoor lighting in order to reduce or prevent light pollution. This means to the extent reasonably possible the reduction or prevention of glare and light trespass, the conservation of energy, and promotion of safety and security.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.181.020. 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:

Area light means light that produces over 2,050 lumens. Area lights include, but are not limited to, street lights, parking lot lights and yard lights.

Automatic timing device means a device that automatically controls the operation of a light fixture or fixtures, circuit or circuits. Photocells and light and/or motion sensors shall be considered automatic-timing devices.

Average foot-candle means the level of light measured at an average point of illumination between the brightest and darkest areas. The measurement can be made at the ground surface or at four to five feet above the ground.

Bulb means the source of electric light. To be distinguished from the whole assembly (see luminaire).

Candela (cd) means unit of luminous intensity.

Eighty-five degree full cut-off type fixtures means fixtures that do not allow light to escape above an 85-degree angle measured from a vertical line from the center of the lamp extended to the ground.

Exterior lighting means temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside are considered exterior lighting for the intent of this chapter.

Fixture means the assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Flood light means light that produces up to 1,800 lumens (See Addendum 1 for Light Output of Various Lamps) and is designed to "flood" a well-defined area with light. Generally, floodlights produce from 1,000 to 1,800 lumens.

Foot-candle means illuminance produced on a surface one foot from a uniform point source of one candela; measured by a light meter.

Full cutoff fixture means a fixture which, as installed, gives no emission of light above a horizontal plane.

Glare means intense light that results in discomfort and/or a reduction of visual performance and visibility.

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Holiday lighting means festoon type lights, limited to small individual bulbs on a string, where the output per bulb is no greater than 15 lumens.

IESNA, Illuminating Engineering Society of North America (IES or IESNA) means the professional society of lighting engineers, including those from manufacturing companies, and others professionally involved in lighting.

Illuminance means density of luminous flux incident on a surface. Unit is foot-candle or lux.

Illuminating devices means:

(1) *Light fixture types.*

- a. *Full cutoff fixture types.* A fixture which, as installed, gives no emission of light above a horizontal plane.
- b. *Floodlights and spotlights.* Fixtures defined as having a full beam width or beam spread of less than 110 degrees.

(2) *Lamp types.*

- a. *Incandescent lamps.* Lamps which produce light via an electrically heated metallic filament.
- b. *Fluorescent lamps.* Lamps that use fluorescence of a phosphor to produce visible light.
- c. *High intensity discharge lamps.* Lamps, which produce visible light directly by the electrical heating or excitation of a gas. Examples of such lighting include, but are not limited to, metal halide, high pressure sodium, low pressure sodium and mercury vapor. For purposes of this chapter, fluorescent lights are not considered HID lighting.
- d. *Light-emitting diode (LED).* An electronic light source used instead of light bulbs, for greater illumination and longevity.
- e. *Induction lighting.* Light generation that is similar to fluorescent light energy and requires less maintenance than conventional fluorescent lamps.

Lamp or bulb means the light-producing source installed in the socket portion of a luminaire.

Light pollution means any adverse effect of manmade light including, but not limited to, light trespass, uplighting, the uncomfortable distraction to the eye, or any manmade light that diminishes the ability to view the night sky. Often used to denote urban sky glow.

Light trespass means light emitted by a luminaire falls where it is not wanted or needed or shines beyond the property on which the luminaire is installed.

Lighting means any or all parts of a luminaire that function to produce light.

Lumen means unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela. One foot-candle is one lumen per square foot. One lux is one lumen per square meter.

Luminaire means the complete lighting unit, including the lamp, the fixture, and other parts.

Luminance means at a point and in a given direction, the luminous intensity in the given direction produced by an element of the surface surrounding the point divided by the area of the projection of the element on a plane perpendicular to the given direction. Units means candelas per unit area. The luminance is the perceived brightness that we see, the visual effect of the illuminance, reflected, emitted or transmitted from a surface.

Measurement means:

(1) *Lamp output.*

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- a. *Total output.* Measurement of total output is in lumens. This should be understood to be the initial lumen value for the lamp.
 - b. *Illuminance.* Measurements of illuminance are expressed in initial lumens per square foot. (A desktop illuminance of 20 initial lumens per square foot is adequate for most purposes.)

In measuring illuminance, the light detector should be pointed directly at the light source or sources. The intervening light path should be free of obstruction.

Outdoor light fixture means an outdoor illuminating device, outdoor lighting or reflective surface, luminous tube, lamp or similar device, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices shall include, but are not limited to lights used for:

- (a) Parking lot lighting;
- (b) Roadway lighting;
- (c) Buildings and structures;
- (d) Recreational areas;
- (e) Landscape lighting;
- (f) Billboards and other signs (advertising or other);
- (g) Product display area lighting;
- (h) Building or structure decoration;
- (i) Building overhangs and open canopies.

Partially shielded means the bulb of the fixture is shielded by a translucent siding and the bulb is not visible at all. Light may be emitted at the horizontal level of the bulb.

Recessed means when a light is built into a structure or portion of a structure such that the light is fully cut-off and no part of the light extends or protrudes beyond the underside of a structure or portion of a structure.

Shielded means when the light emitted from the fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted. The bulb is not visible with a shielded light fixture, and no light is emitted from the sides of the fixture. Also considered a full cut-off fixture.

Spotlight or floodlight means any lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction (see definition for floodlight).

Temporary lighting means lighting that is intended to be used for a special event for seven days or less.

Uplighting means lighting that is directed in such a manner as to shine light rays above the horizontal plane.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.181.030. Scope and applicability.

- (a) *New lighting.* All exterior outdoor lighting for new development and redevelopment projects installed after the effective date of the ordinance from which this chapter is derived in any and all zones in the city shall conform with the requirements established by this chapter and other applicable ordinances unless otherwise exempted. This chapter does not apply to indoor lighting.
- (b) *Nonconforming uses or structures.* If a nonconforming use or structure has been abandoned or is vacant for more than 12 months all lighting on the property must be brought into full compliance before reoccupation or reuse.

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- (c) Conformity shall occur prior to issuance of certificate of occupancy.
 - (d) Induction or LED lighting lamps are the preferred illumination source throughout the city and their use is required.
 - (e) All governmental agencies, federal, state or county, which operate within the city limits of Gladstone should experience no difficulty meeting the requirements of this chapter and are encouraged by the city to comply with its provisions.
 - (f) In the event of a conflict with any other chapter of this Code, the more stringent requirement shall apply.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.181.040. Exemptions and exceptions.

- (a) Residential fixtures consisting of lamp types of 2,050 lumens and below (the acceptability of a particular light is decided by its lumen output, not wattage. Check manufacturer's specifications). Examples include:
 - (1) One hundred watt standard incandescent and less.
 - (2) One hundred watt midbreak tungsten-halogen (quartz) and less.
 - (3) Twenty-five watt T-12 cool white fluorescent and less.
 - (4) Eighteen watt low pressure sodium and less.
- (b) Federally funded and state funded roadway construction projects, are exempted from the requirements of this division only to the extent it is necessary to comply with federal and state requirements.
- (c) Fossil fuel light. Fossil fuel light produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels is exempt from the provisions of this article.
- (d) Full cutoff street lighting, which is part of a federal, state, or municipal installation.
- (e) Holiday lighting.
- (f) Specialized lighting necessary for safety, such as navigated or runway lighting of airports, or temporary lighting associated with emergency operations, road hazard warnings, etc.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.181.050. Approved materials and methods of installation.

The provisions of this chapter are not intended to prevent the use of any design, material or method of installation or operation not specifically prohibited by this chapter, provided such alternative design, material or method conforms with the intent of this division and has been approved by the building official. The building official administrator may approve an alternative design provided he finds that:

- (a) It complies with the applicable specific requirements of this division; or
- (b) It has been designed or approved by a registered professional engineer and complies with the purpose of this division.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.181.060. Submittals.

All applications for building permits or land use planning review which include installation of outdoor lighting fixtures shall include lighting plans conforming to the provisions of this chapter. The planning director and/or building official shall have the authority to request additional information in order to achieve the purposes of this chapter.

- (a) The submittal shall contain the following information and submitted as part of the site plan to the planning and building department for approval.
 - (1) Plans indicating the location, type, intensity, and height of luminaries including both building and ground-mounted fixtures;
 - (2) A description of the luminaries, including lamps, poles or other supports and shielding devices, which may be provided as catalogue illustrations from the manufacturer;
 - (3) Photometric data, such as that furnished by the manufacturer, showing the angle of light emission and the foot-candles on the ground; and
 - (4) Additional information as may be required by the city in order to determine compliance with this chapter.
- (b) Applications for single/multi-family residential or other projects where any single outdoor light fixture exceeds (2,050 lumens output) shall be required to comply with subsection (a) above.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.181.070. General standards.

The following general standards shall apply to all outdoor lighting for new development or redevelopment projects, replacement of outdoor city owned lights, and if purchased, leased KCP&L lights installed after the effective date of the ordinance from which this chapter is derived, which is not exempted above:

- (a) *Area lights.* All area lights, including street lights and parking area lighting, shall be full cutoff fixtures and are encouraged to be 85 degree full cut-off type fixtures. Street lights shall be induction lighting and/or LED lighting, unless otherwise determined by the city that another type is more efficient. Street lights along residential streets shall be limited to 85W induction lighting and/or 90W LED. Street lights along nonresidential streets or at intersections shall be limited to 200W induction and/or 180W LED, except that lights at major intersections on state highways shall be limited to 250W induction and/or 180W LED. If the city permits a light type other than induction or LED, then the equivalent output shall be the limit for the other light type.
- (b) *Canopy lights.* All lighting shall be recessed sufficiently so as to ensure that no light source is visible from or causes glare on public rights-of-way or adjacent property.
- (c) *Illumination levels.* Illumination levels and uniformity shall be in accordance with current recommended practices of the Illuminating Engineering Society. Recommended standards of the illuminating engineering society shall not be exceeded.
- (d) All outdoor lighting systems shall be designed and operated so that the area ten feet beyond the property line of the premises receives no more than 0.25 of a foot-candle of light from the premises lighting system.

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- (e) *Temporary lighting.* Temporary lighting that conforms to the requirements of this chapter shall be allowed. Nonconforming temporary exterior lighting may be permitted by the building official only after considering:
 - (1) The public and/or private benefits which will result from the temporary lighting;
 - (2) Any annoyance or safety problems that may result from the use of the temporary lighting; and
 - (3) The duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the building official.
 - (f) *Residential and commercial lighting fixtures.* All lights shall be shielded in such a way as to direct all light toward the Earth's surface and away from reflective surfaces. Light fixtures or lamps shall be shielded/shaded in such a manner as to direct incident rays away from all adjacent property.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.181.080. Nonpermitted lighting.

- (a) Newly installed fixtures, which are not full-cutoff fixtures.
- (b) Lighting which presents a clear hazard to motorists, cyclists, or pedestrians.
- (c) Laser source light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment is prohibited.
- (d) Lighting resembling emergency vehicles for the purpose of public safety service calls.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.181.090. Appeals.

If an application is denied, an individual shall have the right of appeal to the board of zoning adjustments. The fee for an appeal shall be the same as a variance request application.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.181.100. Violations.

This chapter may be enforced on the basis of a formal complaint filed in writing with the city.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.181.110. Penalties.

See Title 1, section 1.100.140 of this Code.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 185. PERMITS

Sec. 7.185.010. Application for permit.

The community development director, or the community development director's duly authorized representative, shall have the power to enforce the provisions of this chapter. No building or other structure, including footings and foundations, shall be erected, constructed, reconstructed, moved, altered without first obtaining a building permit from the building inspector to be issued in accordance with the terms of this chapter. No permit shall be issued unless there shall first be filed in the office of the community development director, by the applicant therefor, information satisfactory to the community development director, which shall include a plot plan, certified by a land surveyor registered in the state, drawn to scale, correctly showing the location and actual dimensions of the lot or tract to be occupied, and the dimensions and locations on the lot of the building to be erected, constructed, reconstructed, enlarged or altered, with measurements from all lot lines to foundation lines of the building, together with a true statement in writing, signed by the applicant, showing the use for which the building or land is arranged, intended or designed; and no permit shall be issued by the community development director unless such plan or information shall show that such building or land is to conform in all particulars with the provisions of this title. A record of such applications and plans shall be kept in the office of the community development director. Plans and specifications shall be identified by the signature and seal (if required) of the author.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.185.020. Council approval required.

- (a) No permit shall be issued for erection, exterior construction, conversion, establishment alterations or enlargement of any building, structure or improvement without the approval by written resolution of the city council, with the exception of the following: a one- or two-family dwelling or an accessory use customarily incidental thereto, or a commercial building where the value of the construction project is less than \$5,000.00.
- (b) In the event that the approval of the council is required under subsection (a) of this section, the community development director shall, shall, no more than 30 days after the filing of the application for the building permit, certify such application together with all attached plans, specifications, plats, diagrams and other instruments required by law to the council by delivering same to the city clerk with the community development director's recommendation.
- (c) The council shall approve the application if it finds that same shall be in the interest of the public health, welfare, safety and morals, such as to conserve the values of buildings in the vicinity and reasonably consistent with the surrounding area, all with reasonable regard for the following factors:
 - (1) *Design.*
 - a. Plans and elevations.
 - b. Color, material and texture.
 - c. Relation to the site and to adjoining properties.
 - d. Advertising signs as related to proposed structures and adjoining properties.
 - e. Landscaping, fences, walls and entrances.
 - f. Location and elevation of the building upon the site in relation to the topography of the site and in relation to the contiguous property.
 - g. Other factors pertaining to overall design and appearance.

(2) *Future development.*

- a. Proposed highways and streets.
- b. Widening of existing streets.
- c. Public buildings, schools and places of worship.
- d. Parks, parkways and other proposed or contemplated development in the city.

(3) *Generally.*

- a. Fire hazards.
- b. Traffic hazards.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.185.030. Separate permit required for each building or structure; exceptions.

There shall be a separate permit for each building or structure to be constructed, erected or altered, except accessory buildings and appurtenances which may be included in the permit for the main building when construction is simultaneous. A building permit shall not be required for construction not exceeding 18 inches in height, which is located in the side or rear yard.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.185.040. Plan certification.

All plans for buildings covered by section 7.185.010 shall be prepared by, or under the supervision of, a person licensed to practice as a registered architect or a registered professional engineer in accordance with the architectural and engineering laws of the state.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.185.050. Revocation; failure to obtain; stop order.

- (a) A permit may be revoked by the community development director at any time prior to the completion of the building or structure for which the same was issued, when it shall appear that there is departure from the plans, specifications or conditions as required under the terms of the permit, that the same was procured by false representation or was issued by mistake, or that any of the provisions of the zoning ordinance (this title) are being violated.
- (b) Upon the failure, refusal or neglect of any owner, the owner's agent, contractor or duly authorized representative to secure such permit and pay the prescribed fee therefor, as herein provided, the community development director may issue a stop order, provided that 24-hours' written notice of such revocation or order to stop shall be served upon the owner, the owner's agent or contractor, or upon any person employed upon the building or structure for which such permit was issued, or shall be posted in a conspicuous place on the premises. Thereafter, no such construction shall proceed.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.185.060. Appeals.

- (a) The community development director shall be empowered to act within the provisions of this chapter upon all applications for building permits. In the event of refusal by the community development director to issue a permit upon application, as herein provided, the applicant may perfect an appeal to the board of zoning adjustment as provided in chapter 190 of this title.
- (b) An appeal from the approval or denial of a building permit by the city council pursuant to the provisions of this chapter shall be to the circuit court of the county.

(Ord. No. 4.414 , § 1, 1-22-2018)

CHAPTER 190. BOARD OF ZONING ADJUSTMENT⁵⁵

⁵⁵Cross reference(s)—Boards, commissions and committees, § 1.110.010Cross reference(s)— et seq.

Sec. 7.190.010. Continued; composition; appointment of members; terms; vacancies; chairman and other officers.

- (a) The board of zoning adjustment is hereby continued and is also herein referred to as the "board." The board shall consist of five regular members and three alternative members, who may serve in the absence of or disqualification of regular members. All board members shall be appointed by the mayor with the approval of the city council. Each member shall serve for five years, commencing on January 1 of the year that begins each member's term. Members are removable by the city council for cause, upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
- (b) The board members shall elect a chair, vice-chair and secretary to terms of one year. The chairman and other officers may serve up to three consecutive terms in a specific office, and thereafter, may be re-elected to their previous position after a lapse of one year.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.190.020. Adoption of rules; conduct of meetings generally; minutes and records; notice of appeal.

The board shall adopt rules in accordance with the provisions of this title and RSMo 89.010 et seq. Meetings of the board shall be held at the call of the chairperson, and at such other times as the board may determine. Such chairperson or, in the chairperson's absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of such member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city clerk, and shall be a public record. All testimony, objections thereto and rulings thereon shall be taken down by a reporter employed by the board for that purpose. The presence of four members shall be necessary to constitute a quorum. Appeals to the board may be taken by any person aggrieved, or by any officer, department, board or bureau of the city affected by any decision of the administrative officer relating to this title. Such appeal shall be taken within 15-days' time as provided by the rules of the board, by filing with the officer from whom the appeal is taken, and with the board, a notice of appeal specifying the grounds thereof. Such notice shall be accompanied by a fee of \$200.00. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.190.030. Appeal stays all proceedings on actions appealed from; exception.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of zoning adjustment after the notice of appeal shall have been filed with such officer that, by reason of the facts stated in the certificate, a stay would, in such officer's opinion, cause imminent 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 or by a court of record on application or notice to the officer from whom the appeal is taken, and on due cause shown.

Sec. 7.190.040. Fixing of time for hearing; public notice of hearing; time limit for decision; any person may appear at hearing.

The board of zoning adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof and decide the same within a reasonable time, all within 30 days after notice of appeal has been filed, unless a majority of the board shall deem additional time to be necessary. Upon the hearing any party may appear in person or by agent, or by attorney.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.190.050. Powers generally.

The board shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in an order, requirement, decision or determination made by an administrative official in the enforcement of this title.
- (2) To hear and decide all matters referred to it or upon which it is required to pass under the provisions of this title or other ordinances of the city.
- (3) In all instances where the board may grant a variation to the provision of this title, the spirit and intent of the code shall be observed, public safety and welfare secured. An application for a variance may be granted upon a finding of the board that the applicant has shown by clear and convincing evidence that all of the following conditions have been met:
 - a. That the variation is relatively insubstantial in relation to the requirement;
 - b. That if the variance is allowed, the effect of increased population density, if any, on available public facilities and services is minimal;
 - c. That impacts to the character of the neighborhood or detriment to adjoining properties is insubstantial;
 - d. That no other remedy is feasible for the applicant to pursue other than a variance;
 - e. Whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interest of justice will be served by allowing the variance;
 - f. Conditions of the land in question, and not conditions personal to the landowner such as the applicant's personal financial hardship unrelated to any impact upon the land be used as justification for allowing a variance; and
 - g. That the variance requested arises from a condition that is unique to the property in question and is not ordinarily found in the same zoning district.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.190.060. Authority on appeals.

- (a) The board of zoning adjustment shall render decisions on appeals from an action of the community development director. The board shall take action only when it has determined that a permit has been incorrectly issued or denied, or when it has determined that this title has been incorrectly interpreted or when the appellant proves undue and unnecessary hardship due to a provision or provisions herein contained as applied to a specific lot or tract. In case an unnecessary or undue hardship due to peculiar

characteristics of a specific lot or tract is proven, the board may issue a variance signed by the chairperson, and setting out any conditions to be met. A copy of the variance shall be sent to the community development director, who shall issue a permit setting out the terms of the variance, or a copy shall be sent to the appropriate board if other action is involved. In no case shall the board of zoning adjustment issue a variance or an order permitting a use to be placed in a district in which it is not permitted in this title. In no case shall the board decide an appeal from an action of the city council. All voting members shall have attended the hearings preliminary to such vote or have familiarized themselves therewith. In all cases, the spirit and intent of this title shall be observed, public safety and welfare secured, and substantial justice done.

- (b) In exercising the above-mentioned powers, such board may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken.

(Ord. No. 4.414 , § 1, 1-22-2018)

Sec. 7.190.070. Votes necessary for taking action; appeal to circuit court.

The concurring vote of four members of the board will be necessary to reverse the order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this title, or to affect any variation in this title. Appeal from an action of the board may be made to the Circuit Court of Clay County pursuant to RSMo 89.110. No similar variance request concerning the same property may be heard by the board for a period of six months after its decision.

An approved variance shall become effective 30 days from the date the decision is filed by the board. However, a release of liability may be signed to expedite this time period.

(Ord. No. 4.414 , § 1, 1-22-2018)

Title VIII LAND AND DEVELOPMENT ORDINANCE (LADO)⁵⁶

⁵⁶Cross reference(s)—Utilities and taxes, title VI; zoning and planning, title VII; building and construction, title IX.
State law reference(s)—Authority for provisions of title, RSMo 89.010—89.040, 99.800—99.865, 445.010 et seq.

CHAPTER 100. IN GENERAL

Sec. 8.100.010. Administration.

This title shall be administered by the city manager or the city manager's appointed delegate.

(Ord. No. 3.621, § 1(33.00.020), 7-28-1997)

Cross reference(s)—Administration, ch. 105.

Sec. 8.100.020. Jurisdiction.

This title shall be effective throughout the corporate limits of the city; provided, however, that nothing in this title shall be construed to preclude the city from adopting and enforcing extraterritorial zoning, planning, subdivision and building regulations pursuant to RSMo 89.144.

(Ord. No. 3.621, § 1(33.100.030), 7-28-1997)

Sec. 8.100.030. Purpose.

The purpose of this title is to regulate and control the development of land and matters relating thereto within the city in order to promote the public safety, health, and general welfare of the community. This title is specifically designed to establish the requirements and procedures for issuance and phased issuance of public improvement permits, or components thereof, and to ensure consistent development standards for the construction of public improvements. Additionally, this title is designed to facilitate development while protecting the interests of the public and of the city.

(Ord. No. 3.621, § 1(33.100.040), 7-28-1997)

Sec. 8.100.040. Rules of interpretation.

- (a) For the purpose of this title, all words and terms stated in this title are limited to the meanings attributed to them by this section and sections 8.100.050 and 8.100.060. Unless the context clearly indicates to the contrary, words used in the present tense shall include the future tense, words used in the singular shall include the plural, and words used in the plural shall include the singular. The word "building" shall include the words "structure" and "premises." The word "shall" is mandatory. The words "used" or "occupied" shall include the phrases "intended," "designed," or "arranged to be used or occupied." The word "lot" shall include the words "plot," "tract," or "parcel"; and the word "person" shall include the words "firm," "association," "organization," "partnership," "trust," "company," or "corporation," as well as "individual." Where a word or term is not defined in this section and sections 8.100.050 and 8.100.060 but is defined elsewhere in this title or in the city Code, such definition shall be applicable unless the context indicates that a standard dictionary definition is more appropriate. Where a word or term is defined in this section and sections 8.100.050 and 8.100.060 and also defined elsewhere in this title or in the city Code, the definition contained in this section and sections 8.100.050 and 8.100.060 shall be generally applicable except with respect to the article or section to which the other definition applies.

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- (b) Unless specifically provided, in computing any period of time prescribed or allowed by this title, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday. The term "legal holiday" includes any day designated as a holiday by the Congress of the United States, Missouri Legislature and observed by the city. Whenever a notice, petition or other document is required to be filed within a specified time period, the notice, petition or document must be filed with the appropriate city official or in the appropriate city office not later than 5:00 p.m. on the last day of the period as computed above.
- (c) Where this title permits or requires an act on the part of an "owner" or "landowner," and a particular lot or tract of land is owned by several persons, whether in joint tenancy, tenancy in common, partnership, joint venture or other form of joint ownership, the act shall be taken on behalf of, and with the express written consent of, all such persons.
- (d) For purposes of this title, the "effective date" of this title shall be deemed to be the date the ordinance from which this title is derived.

(Ord. No. 3.621, § 1(33.200.010), 7-28-1997)

Sec. 8.100.050. Definitions.

The following definitions shall apply in interpreting and enforcing this title unless otherwise specifically stated:

Accepted (by the city) means the acceptance of a public improvement covered by this title by the city council by resolution or ordinance. The acceptance by the city council shall constitute acceptance of dedicated property, easements, or other public improvements by the city for purposes of ownership or perpetual maintenance.

Accessory structure means a structure which is on the same parcel of property as the principal structure to be insured and where the use is incidental to the use of the principle structure.

Actuarial rates or risk premium rates means those rates established by the administrator of the flood insurance office of the Department of Housing and Urban Development of the United States pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 USC 4014 and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.

Basement means that portion of a building having its floor below ground level on all sides.

Blighted area means an area which, by reason of the predominance of defective or inadequate street layout, unsanitary 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 of a menace to the public health, safety, morals, or welfare in its present condition and use.

BOD (biochemical oxygen demand) means the oxygen used in meeting the metabolic needs of aerobic microorganisms in water rich in organic matter (as water polluted with sewage). Called also biological oxygen demand.

Bond means a performance, payment, or maintenance bond or other instrument of security furnished by a developer and the developer's surety in accordance with the provisions of this title.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building and construction ordinance (BACO) means title IX of the city Code, which controls the design, construction and installation of buildings, dangerous buildings, electrical, mechanical, plumbing, cross connection control, excavation and grading, fire, site and design standards, and property maintenance.

Cesspool means an underground catchbasin that is used where there is no sewer and into which household sewage or other liquid waste is drained to hold and/or facilitate leaching of the liquid into the soil. (Note: Prohibited within the city limits.)

Channel means a natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of a defined channel.

Conductor means a pipe inside a building which conveys stormwater from the roof to a storm or a combined building drain.

Conservation area means any approved area within the boundaries of a redevelopment area located within the territorial limits of the city 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.

Day means a calendar day of 24 hours measured from midnight to the next midnight.

Day (working) means any day where the weather would allow work to be completed. A minimum of four hours of weather in which work can reasonably be performed between the hours of 7:00 a.m. and 9:00 p.m. during any 24-hour period shall be considered a working day.

Dedication means the intentional transfer by a person to the city of ownership of, or an interest in, land for a public purpose. Dedication may be effected by compliance with statutes and ordinances relating to dedication of land, by formal deed of conveyance, or by any other method recognized by the laws of the state.

Design engineer means a civil engineer, licensed in the state, under contract to the developer or the city for the purpose of preparing and sealing engineering drawings.

Development means any manmade change to improved or unimproved real land, including but not limited to, building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Drain means any pipe that carries wastewater or waterborne wastes in a building drainage system.

Economic development area means any area or portion of an area located within the territorial limits of the city, which does not meet the definition of a "blighted area" or "conservation area", as those terms are defined in this section, and with respect to which the city council finds that redevelopment is in the public interest because it will:

- (1) Discourage commerce, industry or manufacturing from moving its operations to another state;
- (2) Result in increased employment in the city; or
- (3) Result in preservation or enhancement of the tax base of the city.

Engineer, city means an engineer employed by the city and licensed in the state for the purposes of reviewing and/or sealing engineering drawings.

Engineering drawings means an engineering plan, calculation, or report prepared and scaled by a professional civil engineer registered in the state in accordance with the provisions of this title.

Escrow agent means a title company, bank, savings and loan association, trust company, attorney or other person approved by the city council to act as escrow agent under the provisions of this title.

Excavation work means the excavation and other work permitted under an excavation permit and required to be performed under this title.

Flood means a temporary rise in a streams flow or stage that results in water overlapping its banks and inundating areas adjacent to the channel. An unusual and rapid accumulation of runoff or surface waters from any source.

Flood elevation determinations means a determination of the water surface elevations of the 100-year flood; that is, a flood that has a one percent chance of occurrence in any given year.

Flood insurance rate map (FIRM) means the official map prepared by the Department of Housing and Urban Development, Federal Insurance Administration for a community, delineating where flood insurance may be sold and the risk premium zones applicable to such area.

Flood insurance study (FIS) means the official report provided by the Federal Insurance Administration. The report contains flood profiles and water surface elevations for various flood frequencies as well as the boundaries and water surface elevations of the 100-year flood.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plan, flood control works and floodplain management regulations.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

Floodway means the channel of a river or other watercourse and the adjacent portion of the floodplain that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the floodplain.

Floodway fringe means that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).

Flood protection system means those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to special flood hazard. Such a system typically includes levees and/or dikes.

Foundation drain means any drainage pipe around the foundation/footing of any building for the purpose of collecting and conveying water.

Garbage means refuse resulting from the preparation, cooking and disposing of food.

Individual sewage disposal system means a system for disposal of domestic sewage by means of a septic tank, cesspool or mechanical treatment, designed for utilization apart from a public sewer to serve a single establishment or building. (Note: Prohibited within the city limits.)

Inspector means an authorized representative of the city, who has been assigned to ensure conformance with the requirements of this title.

Leader means an exterior drainage pipe for conveying stormwater from roof or gutter drains to an approved means of disposal.

Lowest floor means the lowest floor of the lowest enclosed area (including basement) of a structure. 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 nonelevation design requirements of this title.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site (other than for sale) for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction means new construction means those structures where new construction or substantial improvement of which is begun after December 31, 1974, or the effective date of the FIRM, whichever is later, and any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this title.

Normal sewage means sewage which contains not over 360 parts per million of suspended solids and not over 300 parts per million of BOD by weight, and which does not contain any of the materials or substances addressed in title VI, chapter 110 of this Code and any other applicable ordinances.

Obligations 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.

100-year flood means the base flood having a one percent chance of annual occurrence.

Payment in lieu of taxes means those estimated revenues from 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 private use, which taxing districts would have received had the city not adopted tax increment allocation financing, and which would result from levies made after the time of the adoption of tax increment allocation financing during the time the current equalized value of real property in the area selected for the redevelopment project exceeds the total initial equalized value of real property in such area until the designation is terminated pursuant to subsection 8.125.080(b).

pH (symbol) means the negative logarithm of the effective hydrogen ion concentration or hydrogen ion activity in gram equivalents per liter determined in various ways and used for convenience in expressing both acidity and alkalinity. On a scale of zero to 14 on which seven represents the value for pure water at 25 degrees Celsius or neutrality, values less than seven represent increasing hydrogen-ion concentration and increasing acidity and values greater than seven represent decreasing hydrogen-ion concentration and increasing alkalinity.

Planning official means the person designated by the city manager to perform administration and coordinated review and inspection of public improvements as set forth in this title.

Potable water means water free from impurities present in amount sufficient to cause disease or harmful physiological effects and conforming in bacteriological and chemical quality to the requirements of the public health service drinking water standards or the regulation of the city.

Properly shredded garbage means garbage that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewers, with no particle greater than one-half inch in any dimension.

Public improvement means any structural, material, or physical change incident to servicing or furnishing facilities for a development such as, but not limited to, grading; street pavements: curb and gutter; driveway approaches; sidewalks and pedestrian ways; water mains, lines and distribution system elements; sanitary sewers and sewage facilities; storm sewers, culverts, and drainage facilities (including detention or retention facilities); bridges: utilities; lakes; waterways; canals; permanent street monuments; and other appurtenant construction;

demolition of structures; planting and landscaping; bikeways; subdivision entrance signs; and removal of trees and other vegetative cover.

Public improvement official means the person designated by the city manager to perform administration, review and inspection of the public improvements contemplated by this title.

Redevelopment area means an area designated by the city, in respect to which the city has made a finding that there exist conditions which cause the area to be classified as a blighted area, a conservation area, economic development area, or a combination thereof.

Redevelopment plan means 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 area as a blighted area, conservation area, economic development area, or combination thereof, and to thereby enhance the tax bases of the taxing districts which extend into the redevelopment area. Each redevelopment plan shall conform to the requirements of this title.

Redevelopment project means any development project within a redevelopment area in furtherance of the objectives of the redevelopment plan; any such redevelopment project shall include a legal description of the area selected for the redevelopment project.

Redevelopment project costs means and includes the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan or redevelopment project, as applicable. 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, reconstruction, or repair or remodeling of existing buildings and fixtures;
- (5) Initial costs for an economic development area;
- (6) Costs of construction of public works or improvements;
- (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 hereunder 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 project necessarily incurred or to be incurred in furtherance of the objectives of 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 that relocation costs shall be paid or are required to be paid by federal or state law; and
- (10) Payments in lieu of taxes.

Regulatory flood elevation means elevation indicated on the FIRM as the elevation of the 100-year flood.

Regulatory flood protection elevation means an elevation one foot higher than the water surface elevation of the regulatory flood.

Residential dwelling means any single-family dwelling house, any multifamily dwelling, any apartment building, or any other building or structure used in whole or in part for the purpose of residential occupancy.

Roof drain means a drain installed to receive water collecting on the surface of a roof and to discharge such water into a leader or a conductor.

Septic tank means a tank in which the organic solid matter of continuously flowing sewage is deposited and retained until it has been disintegrated by anaerobic bacteria. (Note: Prohibited within the city limits.)

Sewage means any liquid waste containing animal or vegetable matter in suspension or solution, including liquids containing chemicals in solution.

Sewer means:

- (1) *Building sewer* means that part of the drainage system which extends from the end of the building drain and conveys the discharge to the public sewer, private sewer, individual sewage disposal system, or other point of disposal.
- (2) *Public sewer* means a common sewer directly controlled by the city.
- (3) *Sanitary sewer* means a sewer that carries sewage and excludes stormwater, surface water and groundwater.

Sewage system means the network of sewers, together with sewage lift stations and treatment plants, and all appurtenances necessary for the collection and treatment of sewage.

Sidewalk means a concrete area, paralleling and usually separated from the street, used as a pedestrian walkway.

Standard laboratory methods means methods of analysis and testing as outlined in the latest edition of Standard Methods for the Examination of Water and Sewage, published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation.

Start of construction means substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was 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 slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or of the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms; or the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Storm sewer means a sewer that conveys rainwater, surface water, condensate, cooling water or similar liquid wastes.

Stormwater means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

Street means a strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel, which may also be used to provide space for sewers, public facilities, trees and sidewalks.

Structure means anything which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Subgrade means that portion of a street bed upon which a compacted base course is to be constructed or a street surface placed.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before the damage occurred would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement is started, or if the damage occurred. For the purposes of this title, the term "substantial 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 structure. The term "substantial improvement" does not, however, include any alteration to comply with existing state or municipal health, sanitary, building, or safety codes or regulations with written approval from the planning official.

Surety bond means a bond approved by the city council posted with a surety company to guarantee a developers performance with respect to the construction of public improvements in accordance with the provisions of this title.

Surety company means a surety, title, or insurance company approved by the city council to act as surety under section 8.105.160.

Surface water means that portion of a rainfall or other precipitation which runs off over the surface of the ground.

Suspended solids means solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by standard laboratory methods.

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

Taxing districts' capital costs means those costs of taxing districts for capital improvements that are found by the city council to be necessary and to directly result from the redevelopment project.

Vacant land means any parcel or combination of parcels of real property not used for industrial, commercial, or residential buildings.

Waste means the discharge from any fixture, appliance, area or appurtenance which does not contain fecal matter.

(Ord. No. 3.621, § 1(33.200.020—33.200.390), 7-28-1997)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—

Sec. 8.100.060. Referenced standards.

Whenever references are made to standard specifications, methods of testing, materials codes, practices, and requirements, it shall be understood that the latest adopted revision of such references shall govern unless otherwise specified in this title. Wherever any of the following abbreviations appear, they shall have the following meaning:

- (1) AASHTO: American Association of State Highway and Transportation Officials.
- (2) ACI: American Concrete Institute.
- (3) AISI: American Iron and Steel Institute.
- (4) APWA: American Public Works Association.
- (5) ASTM: American Society for Testing and Materials.
- (6) AWWA: American Water Works Association.
- (7) ISO: Insurance Services Office.
- (8) MCIB: Mid-West Concrete Industry Board, Inc.

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- (9) MSSHC: Missouri Standard Specifications for Highway Construction, Missouri Highway and Transportation Commission.
 - (10) MUTCD: Manual on Uniform Traffic Control Devices.
 - (11) OSHA: Occupational and Safety Health Administration

(Ord. No. 3.621, § 1(33.200.500), 7-28-1997)

Sec. 8.100.070. Relationship to other provisions of the Code.

- (a) The use of land within the city shall be subject to all other applicable provisions of this Code as well as this title, whether or not such other provisions of this Code are specifically cross referenced in this title. Cross references to other provisions of the Code in this title are for the convenience of the reader; lack of a cross reference should not be construed as an indication that other provisions of this Code do not apply.
- (b) In interpreting and applying the provisions of this title, each shall be construed to be the minimum requirements necessary for the promotion of public health, safety or the general welfare. Whenever this title imposes more restrictive standards than are required pursuant to any other statute or local regulation, this title shall govern.

(Ord. No. 3.621, § 1(33.100.050), 7-28-1997)

Sec. 8.100.080. Relationship to comprehensive plan and other policies.

It is the intention of the city that this title implement the planning policies adopted by the city as reflected in the comprehensive plan and other planning documents. While the city reaffirms its commitment that this title and any amendment thereto is in conformity with adopted planning policies, the city recognizes that the provisions of this title or any amendment thereto are not required by law to be consistent or in conformity with adopted planning policies or the comprehensive plan.

(Ord. No. 3.621, § 1(33.100.060), 7-28-1997)

Sec. 8.100.090. Prohibitions.

No person shall commence any development within the city or cause development to commence, except for the purpose of aiding in preparation of the final engineering drawings or plans, without first, in conformity with chapter 115 of this title and title VII of this Code, acquiring a public improvement permit, or a component thereof, as required by this title or by any other provisions of this Code, nor shall any person undertake development or cause development to be undertaken without first obtaining all required permits from any agencies that issue permits for the contemplated development, including the city, county, state, or federal governments.

(Ord. No. 3.621, § 1(33.100.070), 7-28-1997)

Sec. 8.100.100. Relationship to private restrictions.

The provisions of this title are not intended to abrogate any deed restriction, covenant, easement or any other private agreement or restriction on the use of land. Provided that, where the provisions of this title are more restrictive or impose higher standards than any such private restriction, the requirements of this title shall control. Where the provisions of any private restriction are more restrictive or impose higher standards than the provisions of this title, such private restrictions shall control if properly enforced by a person having the legal right to enforce such restrictions. Private restrictions shall not be enforced by the city.

(Ord. No. 3.621, § 1(33.100.080), 7-28-1997)

Sec. 8.100.110. Scope.

The provisions of this title shall apply to the design and construction of water lines, sanitary sewers, streets, curbing and sidewalks, stormwater management facilities, excavating and grading, and other items related to public improvements. The title also contains references to standard details and exhibits illustrating the aforementioned requirements. The provisions of this title have been adopted by reference by the city council as the minimum design and construction standards with respect to the aforementioned private and public improvements. The nature of design and construction of public improvements is dynamic, resulting in frequent advances in materials and methods therefor. Public improvements within the city shall be constructed according to the requirements set forth in chapter 115 of this title and title VII of this Code and in the technical specifications and design criteria manual of the city as approved by the city manager from time to time. In the absence of such specifications adopted by the city, such public improvements shall be constructed according to the requirements set forth in the standard specifications and Design Manual of the Kansas City Metropolitan Chapter of the American Public Works Association (APWA), as amended. Any conflict between this Code or city technical specifications and the APWA shall be resolved in favor of the Code first, then in favor of the city technical specifications and finally by APWA. A written clarification or opinion may be requested from the city engineer by any person involved in the construction of public improvements.

(Ord. No. 3.621, § 1(33.100.090), 7-28-1997)

Sec. 8.100.120. Applicability.

Persons that have been issued a public improvement permit, or a component thereof, or have otherwise received city approval for development with respect to which issuance of a public improvement permit, or any component thereof, would have been required, prior to the effective date of the ordinance from which this title is derived and with respect to which work authorized by such permit has not commenced on the effective date of the ordinance from which this title is derived shall have 90 days from the effective date of the ordinance from which this title is derived to begin such work. If such work is begun within such 90 days, the permittee may complete such work in accordance with the terms of the permit issued and the provisions of this Code in effect on the date the permit was issued; provided that, such work shall continue regularly and continuously until all work covered by the issued permit is completed, taking into consideration weather and other factors beyond the permittee's control. If the public improvement official shall determine that the permittee has not regularly and continuously prosecuted all work covered by the permit, the planning official may declare the public improvement permit, or any component thereof, expired and null and void. The planning official's determination may be appealed to an administrative appeals board consisting of the city manager, the public improvement official, the planning official, the director of community services and the appointed inspector. The decision of the administrative appeals board may be appealed to the city board of zoning adjustment in accordance with the procedures set forth in title VII of this Code. All persons to whom a public improvement permit, or any component thereof, is issued after the effective date of the ordinance from which this title is derived and to whom a public improvement permit, or any component thereof, was issued prior to the effective date of the ordinance from which this title is derived, or have otherwise received city approval for development with respect to which issuance of a public improvement permit, or any component thereof, would have been required, but with respect to which work was not commenced within 90 days of the effective date of the ordinance from which this title is derived or with respect to which the public improvement official determines that work has not been regularly and continuously prosecuted shall perform all work covered by the permit and all subsequent public improvement permits, or components thereof, in accordance with the standards established by this title. All such persons shall apply for and be issued a public improvement permit, or the appropriate component thereof, in accordance with the procedures set forth in this title and title VII of this Code before commencing or continuing any development; constructing any public

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improvement; altering or modifying in any manner, including grading or land filling, any tract of land, roadway, or any city-owned utility within the city; or causing such work to commence, except for the purpose of aiding in preparation of the final engineering drawings or plans. In such instance, the public improvements required by this title shall be solely at the expense of the developer. The city shall have no responsibility or obligation to provide such public improvements or to share in the cost of such public improvements.

(Ord. No. 3.621, § 1(33.100.100), 7-28-1997)

Sec. 8.100.130. Fees.

The fees for the review of plans and for other costs incurred by the city shall be paid to the city collector by the developer at the time an application for a public improvement permit, or any component thereof, is filed with the planning official. Such fees shall be in the amounts established by the schedule of fees and charges, as amended from time to time.

(Ord. No. 3.621, § 1(33.100.110), 7-28-1997)

Sec. 8.100.140. Violations.

Any person who violates the provisions of this title shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined not less than \$10.00 or more than \$500.00 or imprisoned for not more than 90 days, or both fined and imprisoned.

(Ord. No. 3.621, § 1(33.100.120), 7-28-1997)

Sec. 8.100.150. Amendments.

- (a) All amendments to this title shall be by ordinance duly adopted by the city council with the exception as noted in this section.
- (b) The public improvement official, with the written approval of the city manager, may authorize exceptions to allow for the use of alternate materials and methods to those specified in this title if they determine based on the developer's written request that:
 - (1) Such alternates will fulfill the requirements of the title;
 - (2) Such alternates are consistent with the spirit and intent of this title;
 - (3) The use of such alternate is so limited as to be the minimum necessary to accommodate the special consideration that required the use of such alternative; and
 - (4) Such alternate will not endanger the health, safety, and welfare of the city.

(Ord. No. 3.621, § 1(33.100.130), 7-28-1997)

CHAPTER 105. IMPROVEMENTS PLANS AND GUARANTEES

Sec. 8.105.010. Public improvement permit applications.

Prior to construction of any improvements covered by this title, a public improvement permit must be obtained from the city. Applications for all public improvement permits, or a component thereof, shall be filed with the planning official in accordance with the procedures set forth in chapter 115 of this title and title VII of this

Code. The planning official shall be empowered to act within the provisions of this title upon all applications for public improvement permits, or a component thereof, and such permits shall be issued in accordance with the procedures set forth in this title, chapter 115 of this title, and title VII of this Code.

(Ord. No. 3.621, § 1(33.300.010), 7-28-1997)

Sec. 8.105.020. Engineering drawings required.

- (a) *When required, content and submission requirements, and procedure for approval.* Engineering drawings that meet the content and submission requirements of chapter 115 of this title and title VII of this Code shall be considered by the public improvement official in accordance with the procedures set forth in chapter 115 of this title and title VII of this Code, except engineering drawings for public improvements to be made under the jurisdiction of or after the approval of other municipal, county, state, or federal agencies, in which case the drawings shall be submitted to and approved by the agency with approval authority over such drawings. When review and approval of engineering drawings is made by other agencies, the public improvement official shall be provided written confirmation from those agencies that the requisite reviews have been completed and approvals have been granted.
- (b) *Changes to approved engineering drawings.* The construction of all public improvements, with respect to which engineering drawings are required by this title, or any other provision of this Code, especially chapter 115 of this title and title VII of this Code, shall conform to the approved engineering drawings. If the developer determines that it is necessary or desirable to construct a public improvement, with respect to which engineering drawings have been approved, in a manner that is a substantive change to the approved engineering drawings, the developer shall submit revised engineering drawings to the public improvement official for consideration and approval in accordance with the procedures set forth in chapter 115 of this title and title VII of this Code. For purposes of this section, a substantive change is a change that:
 - (1) Alters terrain or drainage patterns or flows.
 - (2) Causes a relocation either vertically or horizontally of any facility.
- (c) *Modifications during construction.* If the developer chooses to make nonsubstantive changes during construction, the developer shall make such changes only with the prior written approval of the public improvement official. The developer need not submit revised engineering drawings for changes to the approved engineering drawings that are nonsubstantive. However, nonsubstantive changes shall be approved by the public improvement official in writing before commencement of construction on any public improvement to which such nonsubstantive change relates. The public improvement official may require that the developer submit such documentation as the public improvement official shall deem necessary to make the determination whether or not to approve the requested nonsubstantive change. It shall be the responsibility of the developer to notify the public improvement official of proposed changes to the approved engineering drawings.
- (d) *Development done in phases.* If a development is constructed in phases over a period of time, the engineering drawings shall be considered as provided for in chapter 115 of this title and title VII of this Code, in the same sequence as the designated stages of the development. Engineering drawings shall only be submitted for review for portions of the development for which the developer seeks to immediately commence construction unless otherwise requested by the city to determine future effects or impacts of the development. Construction shall not commence until engineering drawings are approved by the city and applicable state and federal agencies.
- (e) *Developer to contact utility companies.* It is the responsibility of the developer to contact and coordinate the planning and design of development with all utility companies that may be affected by the development at

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any point in time. Specifically, the developer shall provide a letter from electric, gas, and phone utilities stating that services will be provided to the development and that planning for such services will commence.

- (f) *Submission of schedule for construction.* Prior to the commencement of construction of public improvements, the developer shall submit to the public improvement official, and all public utility companies affected by the construction and all other agencies that have jurisdiction over the development, a general schedule of the timing and sequence for construction of all public improvements for which engineering drawings are required by chapter 115 of this title and title VII of this Code.
- (g) *Escrow.* Upon approval of the city, a developer may provide an escrow in the amount equal to the cost of required public improvements. The escrow amount shall be calculated by the project engineer, reviewed by the public improvement official and approved by the planning official and escrow funds submitted by the developer prior to obtaining any portion of a public improvement permit. In the event that a developer chooses to request an escrow in lieu of completing the required public improvements, such request must be submitted to the city in writing together with all necessary rights-of-way and permanent and temporary easements required to complete the public improvement.

(Ord. No. 3.621, § 1(33.300.020), 7-28-1997)

Sec. 8.105.030. Improvement installation and performance guarantee.

- (a) *Public improvements.* Generally, upon approval of the preliminary plat by the planning commission; approval of the development agreement when necessary by the city council and approval of the final plat by the planning commission and city council and recording of plat; approval of engineering drawings by the planning official; and submission of a performance bond, on forms acceptable to the city, or an acceptable financial guarantee or combination thereof as described in this section, in an amount equal to 100 percent of the construction costs of all public improvements, the developer may commence construction of approved public improvements. The performance bond shall be based on the written bid provided to the developer by the contractor for such improvements. A copy of all such bids shall be provided to the city. Upon completion and approval of constructed public improvements by the inspection of the public improvement official, the developer shall request in writing that the public improvements be accepted by the city council and shall provide: a bill of sale for such public improvements; lien waivers from all contractors or subcontractors associated with the construction and/or installation of public improvements; as-built reproducible mylars and a digital file of the as-built improvements in the .dwg or .dxf file format; and a maintenance bond or other financial guarantee approved by the city. (See section 8.105.070 and section 8.105.100.)
- (b) *Surety company.* The performance bond and maintenance bond shall be with a surety company authorized to do business in the state. The performance bond shall be undated and be in full force and effect until all covered public improvements are completed and accepted by the city council.
- (c) *Escrow funds.* In lieu of a performance bond, the developer shall deposit with the city clerk, or an escrow agent mutually agreed upon by the city manager and the developer, subject to city council approval and audit, cash, a certified check, an irrevocable bank letter of credit, a commitment from a lending institution, or other readily negotiable instruments, the type of which has been approved by the city council and endorsed to the escrow agent.
- (d) *Accrual.* The performance bond or escrow funds shall accrue to the city to be used to administer the construction, operation, and the maintenance of the public improvement in the event that the public improvements have commenced and are not completed by the developer within the period of time required by the conditions of the guarantee for the public improvements. The maintenance bond or escrow funds shall accrue to the city upon the developer's refusal to repair, to the city's satisfaction, any public improvement which has failed or requires maintenance. The city shall not refund any funds received through accrual.

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- (e) *Escrow calculation.* The estimated cost for completing construction of the public improvements including cost increases over the anticipated construction period and contingencies as estimated by the developer's engineer, verified by the public improvement official, and approved by the planning official and the cost of site cleanup and restoration as required by section 8.105.090, shall be the amount the developer submits to the city in lieu of a bond when so authorized.
 - (f) *Terms.* The term of the performance bonds shall be until all required public improvements have been completed and accepted by the city. The term of an escrow shall not exceed 15 years from the date of submission.

(Ord. No. 3.621, § 1(33.300.030), 7-28-1997)

Sec. 8.105.040. Inspection of improvements.

- (a) *Inspections required.* All public improvements required by this title shall be inspected by the public improvement official except for public improvements made under jurisdiction of other public agencies, in which case engineers or inspectors of each agency will make the necessary inspections. Where inspections are made by other agencies, the public improvement official shall be given written reports of each final inspection.
- (b) *Inspection schedule.* It shall be the developer's responsibility to notify the public improvement official when public improvements are ready for inspection. Failure of the contractor to give proper notice for inspection shall be adequate cause for the public improvement official to reject the construction.
- (c) *Compliance with standards.* The developer shall be responsible for the installation and construction of all public improvements required by this title and such public improvements shall be made in conformity with the provisions of this title and with the standards and specifications of public agencies with jurisdiction over such improvements.
- (d) *Acceptance of work.* The public improvement official's approval of the installation and the construction of public improvements shall not constitute acceptance by the city of the public improvement for dedication purposes. Such acceptance shall be made only by formal action of the city council, pursuant to section 8.105.080.
- (e) *Partial acceptance of work.* The city council may accept and, upon such acceptance, the city may make use of any completed portion of a required public improvement without obligating the city to accept the remainder of the public improvement or any portion thereof. However, the warranty period for the accepted portion shall not start until the public improvement is complete and the city has issued the certificate of final acceptance in accordance with section 8.105.080.

(Ord. No. 3.621, § 1(33.300.040), 7-28-1997)

Sec. 8.105.050. Revocation of public improvement permit.

- (a) A public improvement permit, or any component thereof, may be revoked by the public improvement official at any time prior to the completion of all public improvements covered by such permit, when the public improvement official determines that:
 - (1) Construction is being undertaken that is not in conformity with the approved plans, specifications, engineering drawings or conditions as required under terms of the permit;
 - (2) The permit was procured by false representation;
 - (3) The permit was issued in error; or

(4) Any provision of this title or any other provision of this Code is being violated.

- (b) Written notice of such revocation shall be served upon the developer, owner, the owner's or developer's contractor, or upon any person employed on the property for which such permit was issued, or shall be posted in a prominent location at the project site, and thereafter no work on the development with respect to which the permit was revoked shall proceed.

(Ord. No. 3.621, § 1(33.300.050), 7-28-1997)

Sec. 8.105.060. Submission of post-construction as-built mylars with public improvement official certificates.

- (a) The developer must submit as-built mylars to the public improvement official prior to the acceptance of any public improvement by the city. The mylars must include the results of a postconstruction survey. The set of drawings shall be recertified by the developer's design engineer indicating the date when the as-built survey was made. Such drawings shall be made on polyester with matte on both sides on a sheet 22 inches by 34 inches in size. Plans may be any scale from one inch equals ten feet; to one inch equals 50 feet. With the as-built plans, the developer shall submit a digital file of the public improvements in the .dwg or .dxf file format. This provision does not apply to public improvements required solely by other public agencies. At a minimum, the postconstruction survey shall include the following:
- (1) Vertical elevations, horizontal location and size of all sanitary and storm sewers, manholes, inlets, junction boxes, detention basins and other appurtenances or elements of the sewage and storm drainage systems constructed to serve the development as required by this title, chapter 115 of this title, and title VII of this Code.
 - (2) Unless otherwise required by the planning official, the as-built drawings for streets or street improvements shall be limited to a survey of the street centerline, with final profile elevations recorded on the drawings at 50-foot intervals, and the notations of changes in horizontal alignment or intersection geometries which may have been made during construction. Monuments of the centerline of the right-of-way shall be field staked.
 - (3) Drawings for water lines, valves, hydrants and other appurtenances or elements of the water distribution system constructed to serve the development shall be limited to horizontal and vertical locations and sizes of water lines and location and description of valves, with dimensional ties as may be required by the public improvement official.
- (b) The as-built mylars must include a signed engineer's certification stating that the drawings are as-built and conform to the construction records and postconstruction survey information.

(Ord. No. 3.621, § 1(33.300.060), 7-28-1997)

Sec. 8.105.070. Maintenance bonds.

- (a) *Generally.* Prior to acceptance of public improvements by the city council, the developer shall submit, to the public improvement official, a maintenance bond for the public improvements, in a form acceptable to the city counselor. The bond shall conform to the requirements of this title.
- (b) *Amount.* The maintenance bond shall be 100 percent of the actual cost of the public improvements.
- (c) *Bond term.* The term of the maintenance bond shall be for a period of two years after completion and acceptance by the city council for all public improvements.

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- (d) *Expiration of maintenance bonds.* The city shall reinspect the public improvements at anytime or at times prior to the expiration of the maintenance bonds. Any defects noted as a result of such inspection shall be corrected by the developer at the developers expense upon written notification by the city. A written copy of the final inspection report shall be forwarded to the developer.
- (e) *Extension of term.* The maintenance bond may be extended by the city for good cause shown at any time prior to expiration of the term.
- (Ord. No. 3.621, § 1(33.300.070), 7-28-1997)

Sec. 8.105.080. Completion of work; acceptance by the city.

If the city council, in its sole discretion, determines that each of the following requirements are satisfactorily met, certificate of final acceptance for public improvements will be issued upon adoption of a resolution by the city council:

- (1) A maintenance bond respecting the public improvement for which a certificate of final acceptance is to be issued has been submitted and accepted in accordance with the procedures established in this title.
- (2) A punch list describing items to be completed or corrected respecting the public improvement for which a certificate of final acceptance is to be issued has been provided to the developer by the public improvement official.
- (3) As-built mylar drawings respecting the public improvement for which a certificate of final acceptance is to be issued have been received by the public improvement official and conform to the requirements of section 8.105.060.
- (4) Lien waivers respecting the public improvement for which a certificate of final acceptance is to be issued has been received by the public improvement official.
- (5) Bills of sale for all elements of the public improvement with respect to which a certificate of final acceptance is to be issued have been received by the public improvement official.
- (6) The public improvement with respect to which a certificate of final acceptance is to be issued has been constructed in conformity with the approved engineering drawings and with all applicable provisions of this title, chapter 115 of this title, and title VII of this Code.

(Ord. No. 3.621, § 1(33.300.080), 7-28-1997)

Sec. 8.105.090. Failure to complete public improvements; site cleanup and restoration.

- (a) *Failure to complete public improvements.* In the event the developer shall fail to complete all required public improvements with respect to which public improvement permit has been issued by the city, within the period of time required by the conditions of the guarantee for the completion of the public improvements, the city council may require that such work be completed. In order to accomplish this, the city council shall pay for the cost and expense thereof by appropriating the escrow amount or other financial security which developer may have deposited in lieu of a surety bond, or may take such steps necessary to require performance by the bonding or surety company, and as may be included in any written agreement between the city council and the developer. If sidewalks are not completed by the developer, the developer shall certify to the city council that each lot or parcel shall contain a covenant that requires the purchaser to construct sidewalks in conformance with all provisions of this title (see section 8.120.040).
- (b) *Site cleanup and restoration.* In the event that the developer fails to complete public improvements, the developer shall be responsible for removal of all equipment, material, and general construction debris from

the development and from any lot, street, or public way or property therein or adjacent thereto. At a minimum, the developer shall restore the site of the work and adjacent disturbed areas to the condition existing before the work began. All yards and lawn areas established with grass prior to construction shall be sodded to match the prior and/or existing grass. No established areas may be seeded. Any costs incurred by the city due to the failure by the developer to clean up the site to the city's satisfaction will be charged to the account of the developer or the developer's surety. Dumping of such debris into sewers, adjacent property or other land or burning of waste material in the city is prohibited.

(Ord. No. 3.621, § 1(33.300.090), 7-28-1997)

Sec. 8.105.100. Issuance of building permits.

Generally, no building permit will be issued for any structure before acceptance by the city of all required public improvements, when required, in accordance with section 8.105.080. Upon written request by the developer and for good cause shown, the planning official may, with approval of the city manager, issue a building permit limited to the construction of a noncombustible foundation prior to the final acceptance of public improvements by the city council.

(Ord. No. 3.621, § 1(33.300.100), 7-28-1997)

Sec. 8.105.110. Construction in the right-of-way.

- (a) *Permit required.* No person shall engage in any activity that results in, or is intended to result in, an opening or excavation, or any damage incident thereto, in the public right-of-way or in the streets or alleys within the city without first obtaining from the city a permit for permission to engage in such activity.
- (b) *Permit fee.* Unless covered by another permit, each application for such permit shall be accompanied by a fee as established by the schedule of fees and charges, as amended.
- (c) *Bond required.* Each applicant for a public improvement permit which contemplates the opening or excavation of public right-of-way shall post with the city a bond plus a fee amount per square foot, such amount being in cash and as specified by the schedule of fees and charges, as amended. This bond will be held by the city until a written release is given, signed by the public improvement official certifying that the right-of-way has been properly and satisfactorily repaired by the applicant and has been returned to a condition that is at least equal to the condition of the right-of-way prior to initiation of the activity that gave rise to the need for a permit.
- (d) *Failure to make repairs.* If the permittee shall fail to repair the right-of-way so disturbed within seven working days after notification by the public improvement official to do so, the bond and cash deposited with the city shall be deemed forfeited and the city shall use the monies to make the necessary repairs. The city reserves the right, in emergency situations, to complete the work without notice to the permittee and redeem the bond to cover the expenses to make the necessary repairs.
- (e) *Permittee's duty to supervise construction.* The permittee, at all times during construction and in the operation of any work incidental to the granting of a public improvement permit, or any portion thereof and until such time as construction of the public improvement is completed, and the public improvement has been approved by the city, shall have the responsibility and the duty to erect and maintain all necessary barricades and flares and to supervise such construction. In the event that permittee fails to adequately maintain barricades and flares, the city may cause the erection and maintenance of such safety devices and permittee shall reimburse the city for the actual cost thereof.
- (f) *Conformance to manual specifications.* All street cuts shall conform to the specifications set forth in the technical specifications and design criteria manual.

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(Ord. No. 3.621, § 1(33.300.110), 7-28-1997)

Sec. 8.105.120. Utility company operations in city right-of-way.

- (a) Utility companies, including all electric, gas, telephone, water and cable television companies, shall notify the public improvement official prior to any development on city right-of-way.
- (b) All utilities shall be buried a minimum depth of 24 inches below the top of any pavement and a minimum depth of 19 inches at all other locations. Utility trenches shall not be closer than 12 inches to the back of the curb.

(Ord. No. 3.621, § 1(33.300.120), 7-28-1997)

Sec. 8.105.130. Staging.

- (a) Where the development is to be constructed in stages, the provisions of this title shall apply to each and every stage. However, public improvements and financial guarantees may be required to extend beyond the boundaries of a stage if such extension is necessary to ensure the relative self-sufficiency of the stage pending completion of the entire development. Such extensions, schedules, and similar arrangements shall be set forth in a written agreement between the developer and the city council prior to the approval of the final plat, if plat approval is required, and if plat approval is not required, prior to issuance of a public improvements permit, or any component thereof.
- (b) The staging of any development must be based on an overall phasing scheme. Any deviation from the overall plan or a change to any single phase of the plan must be requested in writing and approved by the public improvement official with notification to the planning official. The developer is responsible for the completion of the overall development and for compliance with the intent of this title as it relates to the development.

(Ord. No. 3.621, § 1(33.300.130), 7-28-1997)

Sec. 8.105.140. Facility upsizing.

- (a) City financial assistance may be made available to upsize facilities to serve the development needs of the city. The amount of upsizing assistance shall be based upon city infrastructure planning requirements versus the minimum requirements needed to serve the development.
- (b) Areas of possible upsizing may be either identified by the city or the developer at the time of submission of the engineering drawings. The developer shall provide information to include a cover letter stating the specifics of the upsizing proposal along with three bids that illustrate the cost of the minimum public improvements required to serve the development versus the cost of the public improvements that the city believes are appropriate, based on city infrastructure planning. Following the evaluation of the proposal by the public improvement official, the planning official and the city manager, an upsizing agreement may be negotiated by the city manager and the developer. After the developer has executed the agreement and returned the originals to the city, the proposal will then be presented to the city council for approval of the city's estimated share of the cost of the upsized facilities and the agreement. Following approval of the agreements by the city council, the engineering drawings shall be reviewed as required by this title, and if approved, the application for a public improvements permit shall be considered. If the public improvement permit is approved by the public improvement official, the required public improvements shall be constructed by the developer. Following acceptance of the improvements by the city, the developer shall submit along with such other documentation as may be required by the city a written request for the final

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dollar amount of the city's share of the cost of such upsizing. Upon approval of the request, payment shall be made by the city to the developer and shall not be unreasonably withheld.

(Ord. No. 3.621, § 1(33.300.140), 7-28-1997)

Sec. 8.105.150. Traffic control during construction.

During construction of public improvements, the developer shall maintain the reasonable flow of traffic in streets and access to affected private property at all times. Reasonable notice shall be given to owners of private drives 24 hours before initiation of any construction that might affect private property. The developer shall provide a safe roadway, and shall erect and maintain warning signs, barricades and sufficient safeguards around all excavations, embankments and obstructions. The developer shall provide suitable warning lights or flares and keep them lighted from one-half hour prior to sunset to one-half hour after sunrise and at all other times when visibility is limited. The developer shall further provide such flagman and watchman as required by the city to ensure the protection of the public. The design, placement and maintenance of traffic control devices shall correlate with and so far as possible conform to the system set forth in the most recent edition of the manual on uniform traffic control devices for streets and highways. The developer shall coordinate development with the planning official in order that suitable arrangements are made for detours, parking, access to private property and that all such other necessary arrangements are made. Whenever a street is to be closed or partially closed, the developer shall notify the department and ~~public safety~~police department of the closing and an estimated time when normal service will be resumed. In the event it is determined that the developer is not maintaining a safe roadway, the city may improve the roadway conditions and traffic safety devices at the expense of the developer. In the event that such cost is not reimbursed by the developer to the city, the city may draw such funds from the performance bond submitted by the developer.

(Ord. No. 3.621, § 1(33.300.150), 7-28-1997)

Sec. 8.105.160. Indemnity against damages.

The developer shall, in conjunction with the issuance of a public improvement permit, or any component thereof, execute an agreement with the city, in a form acceptable to the city counselor, whereby the developer expressly agrees to indemnify and save harmless the city, and its officers and employees against all suit, actions, claims, damages, losses, liabilities, costs or expenses (including attorney's fees) of every kind and nature brought or arising out of or which may be brought or arises out of, or is sustained by any person, firm, or corporation, or persons, firms, or corporations, in connection with or on account of the developer's work or work done for or on behalf of the developer or the property owner with respect to the development for which a public improvement permit or any component thereof has been issued or in consequence of any negligence in connection with the work, or on account of any poor workmanship, or on account of any act of commission or omission of the contractor/developer or their agent or employees, or for any cause arising out of and during the course of construction.

(Ord. No. 3.621, § 1(33.300.160), 7-28-1997)

Sec. 8.105.170. Easements and dedications.

Approval of the engineering drawings for development that requires that easements and right-of-way be dedicated or conveyed with respect to land outside the project area shall not be granted until such easements and right-of-way dedications have been recorded in the land records of the county and verification of easements and right-of-way dedications have been provided to the city.

(Ord. No. 3.621, § 1(33.300.170), 7-28-1997)

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Sec. 8.105.180. Improvements to existing facilities.

All public improvements required by this title that involve the improvement to or replacement of any existing public improvements, which do not conform to the standards of this title, shall be constructed in accordance with the building and construction ordinance, chapter 115 of this title, and title VII of this Code, technical specifications and design criteria manual, and other applicable provisions of this Code.

(Ord. No. 3.621, § 1(33.300.180), 7-28-1997)

Sec. 8.105.190. Protest.

If a developer considers any work demanded of the developer to be outside the requirements of this title, the developer may, within 48 hours of the determination requiring that such work be done, file a written protest with the public improvement official, stating the objections and reasons therefor. The public improvement official shall respond in writing to the developer's protest within two working days. Unless protests are made in the manner specified and within the time limit stated in this section, the developer waives all rights for protest. A protest shall not entitle the developer to proceed with work pending the resolution of any conflict under this section.

(Ord. No. 3.621, § 1(33.300.190), 7-28-1997)

Sec. 8.105.200. Violation and penalty.

- (a) *Violation.* In case any construction work is performed or land is used in violation of this title, the proper local authorities of the city, in addition to other remedies, may institute any appropriate actions or proceedings to prevent such unlawful construction or land use as may be required to restrain, correct, or abate such violation: to prevent the occupancy of any building, structure, or land; or to prevent any illegal act, business conduct, or use in or about such premises. Failure to obtain the required permit prior to making such improvement shall constitute a violation of this title. Each day of such noncompliance shall constitute a separate violation.
- (b) *Penalty.* The owner, contractor, developer or general agent or representative of the owner of any premises where a violation of any provision of this title has been committed or shall exist, or any other person who commits, takes part in, or assists in any such violation or who maintains any premises on which any such violation exists, shall be guilty of a violation of this title, which violation shall be punishable by a fine of not more than \$500.00 or not more than 90 days imprisonment, or by both such fine and imprisonment for each and every day the violation shall occur, at the discretion of the court. Any person who, having been served with an order to remove any such violation, shall fail to comply with such order within ten days after such service, or shall continue to violate any provision of this title in the respect named in such order, shall also be subject to the above stated civil penalty.

(Ord. No. 3.621, § 1(33.300.200), 7-28-1997)

CHAPTER 110. FLOODPLAIN MANAGEMENT⁵⁷

⁵⁷Editor's note(s)—Ord. No. 4.316, adopted July 27, 2015, repealed the former ch. 110 and enacted a new chapter as set out herein. The former ch. 110, §§ 8.110.010Editor's note(s)—8.110.140, pertained to flood control

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regulations and derived from Ord. No. 3.621, § 1(33.400.010, 33.400.020, 33.400.040—33.400.150), adopted July 28, 1997.

Cross reference(s)—Utilities, § 6.100.010 et seq.; zoning and planning, title VII.

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Title VIII - LAND AND DEVELOPMENT ORDINANCE (LADO)
CHAPTER 110. - FLOODPLAIN MANAGEMENT
ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES

Sec. 8.110.010. Statutory authorization.

The State of Missouri has authorized Cities of Third Class to enact ordinances they deem expedient to preserve the peace and good order and to protect the health of inhabitants in accordance with RSMo 77.260. Floodplain management is deemed necessary in this regard. Therefore, the city council ordains as follows in this chapter.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.020. Findings of fact.

- (a) *Flood losses resulting from periodic inundation.* The special flood hazard areas of the City of Gladstone, Missouri 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 Clay County dated August 3, 2015 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.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.030. Statement of purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in section 8.110.020(a); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 CFR 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this 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;
- (3) Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

(Ord. No. 4.316, § 2, 7-27-2015)

ARTICLE 2. GENERAL PROVISIONS

Sec. 8.110.040. Lands to which chapter applies.

This chapter shall apply to all lands within the jurisdiction of the City of Gladstone, Missouri identified as numbered and unnumbered A zones and AE zones, on the flood insurance rate maps (FIRMs) for Clay County on map panels 29047C0202E, 29047C0204E, 29047C0206E, 29047C0207E, 29047C0208E, 29047C0209E, and 29047C0212E, dated August 3, 2015 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 city council or its duly designated representative under such safeguards and restrictions as the city council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in article 4.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.050. Floodplain administrator.

The city engineer is hereby designated as the floodplain administrator under this chapter.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.060. 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.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.070. 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.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.080. 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.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.090. 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 of Gladstone, any officer or employee thereof, for any flood damages that may result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.100. Severability.

If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this chapter shall not be affected thereby.

(Ord. No. 4.316, § 2, 7-27-2015)

ARTICLE 3. ADMINISTRATIONS

Sec. 8.110.110. Floodplain development permit (required).

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in article 2, section 8.110.040. 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.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.120. Designation of floodplain administrator.

The city engineer is hereby appointed to administer and implement the provisions of this chapter.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.130. Duties and responsibilities of floodplain administrator.

Duties of the city engineer 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 Missouri State Emergency Management Agency (Mo SEMA) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- (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 nonresidential structure, the city engineer shall require certification from a registered professional engineer or architect.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.140. Application for floodplain development permit.

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

- (1) Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
- (2) Identify and describe the work to be covered by the floodplain development permit;
- (3) Indicate the use or occupancy for which the proposed work is intended;
- (4) Indicate the assessed value of the structure and the fair market value of the improvement;
- (5) Specify whether development is located in designated flood fringe or floodway;

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- (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 city engineer;
 - (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.

(Ord. No. 4.316, § 2, 7-27-2015)

ARTICLE 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 8.110.150. 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 on-site waste disposal systems be located so as to avoid impairment or contamination; and
 - (6) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to 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;

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- c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - d. All proposals for development, including proposals for manufactured home parks and subdivisions, of five acres or 50 lots, whichever is lesser, include within such proposals base flood elevation data.
- (e) Storage, material, and equipment.
- (1) The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
 - (2) Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.160. Specific standards.

- (a) 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 article 4, section 8.110.150(b), 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 (1) 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 article 3, section 8.110.130(i).
 - (3) Require, for all new construction and substantial-improvements that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and
 - b. The bottom of all 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.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.170. 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;
 - (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 article 4, section 8.110.170(b) 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.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.180. Floodway.

Located within areas of special flood hazard established in article 2, section 8.110.040 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) If article 4, section 8.110.180(b) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of article 4.

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- (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 article 4, section 8.110.150(b).

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.190. Recreational vehicles.

- (a) Require that recreational vehicles placed on sites within all unnumbered and numbered A zones and AE zones on the community's FIRM either:
- (1) Be on the site for fewer than 180 consecutive days;
 - (2) Be fully licensed and ready for highway use;⁵⁸ or
 - (3) Meet the permitting, elevation, and the anchoring requirements for manufactured homes of this chapter.

(Ord. No. 4.316, § 2, 7-27-2015)

⁵⁸ 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.

ARTICLE 5. FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

Sec. 8.110.200. Establishment of appeal board.

The uniform codes board of appeals is hereby designated by the city to hear and decide appeals and requests for variances from the floodplain management requirements of this chapter.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.210. Responsibility of appeal board.

Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the city engineer, the applicant may apply for such floodplain development permit or variance directly to the uniform codes board of appeals.

The uniform codes board of appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the city engineer in the enforcement or administration of this chapter.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.220. Further appeals.

Any person aggrieved by the decision of the uniform codes board of appeals or any taxpayer may appeal such decision to the Clay County Circuit Court as provided in RSMo 89.110.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.230. Floodplain management variance criteria.

In passing upon such applications for variances, the uniform codes board of appeals 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;

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- (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.

(Ord. No. 4.316, § 2, 7-27-2015)

Sec. 8.110.240. Conditions for approving floodplain management variances.

- (a) Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (b) through (f) below have been fully considered. As the lot 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 structure's 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 (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (f) The city engineer shall notify the applicant in writing that the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance and 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.

(Ord. No. 4.316, § 2, 7-27-2015)

ARTICLE 6. PENALTIES FOR VIOLATION

Sec. 8.110.250. Penalties for violation.

Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon

conviction thereof, be fined not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City of Gladstone or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 4.316, § 2, 7-27-2015)

ARTICLE 7. AMENDMENTS

Sec. 8.110.260. 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 a newspaper of general circulation in the City of Gladstone least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this ordinance are in compliance with the National Flood Insurance Program (NFIP) regulations.

(Ord. No. 4.316, § 2, 7-27-2015)

ARTICLE 8. DEFINITIONS

Sec. 8.110.270. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning they have in common usage and to give this chapter its most reasonable application.

100-year flood. See *base flood*.

Accessory structure means the same as "appurtenant structure."

Actuarial rates. See *risk premium rates*.

Administrator means the Federal Insurance Administrator.

Agency means the Federal Emergency Management Agency (FEMA).

Agricultural commodities means agricultural products and livestock.

Agricultural structure means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

Appeal means a request for review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

Appurtenant structure means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

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Basement means any area of the structure having its floor subgrade (below ground level) on all sides.

Building. See *structure*.

Chief executive officer or chief elected official means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

Community means any state or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Development means any 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 means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Eligible community or participating community means a community for which the administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood boundary and floodway map (FBFM) means an official map of a community on which the administrator has delineated both special flood hazard areas and the designated regulatory floodway.

Flood elevation determination means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood elevation study means an examination, evaluation and determination of flood hazards.

Flood fringe means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

Flood insurance rate map (FIRM) means an official map of a community, on which the administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see *flooding*).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

Floodway or regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway encroachment lines means the lines marking the limits of floodways on federal, state and local floodplain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

Functionally dependent use means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. 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 lots for rent or sale.

Map means the flood hazard boundary map (FHBM), flood insurance rate map (FIRM), or the flood boundary and floodway map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

Market value or fair market value means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

Mean sea level means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map (FIRM) are referenced.

New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

NFIP means the National Flood Insurance Program (NFIP).

Participating community also known as an "eligible community," means a community in which the administrator has authorized the sale of flood insurance.

Person includes any individual or group of individuals, corporation, partnership, association, or any other entity, including federal, state, and local governments and agencies.

Principally above ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred 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 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 FHBM, FIRM or FBFM as zones (unnumbered or numbered) A and AE.

Start of construction includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State coordinating agency means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. "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 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; or
- (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 means any combination of reconstruction, alteration, or improvement to a building, taking place during a ten-year period, in which the cumulative percentage of improvement equals or exceeds 50 percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. This term includes structures, which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work done.

The term does not apply to:

- (1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure;" or
- (3) Any building that has been damaged from any source or is categorized as repetitive loss.
- (4) Recommend development of written and adopted policy and procedure.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

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.

(Ord. No. 4.316, § 2, 7-27-2015)

CHAPTER 115. SUBDIVISION REGULATIONS⁵⁹

⁵⁹Cross reference(s)—Utilities, § 6.110.010Cross reference(s)— et seq.; zoning and planning, title VII.

State law reference(s)—Plats generally, RSMo 445.010 et seq.; planning, RSMo 89.300 et seq.

- CODE OF ORDINANCES
Title VIII - LAND AND DEVELOPMENT ORDINANCE (LADO)
CHAPTER 115. - SUBDIVISION REGULATIONS
ARTICLE 1. IN GENERAL

ARTICLE 1. IN GENERAL

Sec. 8.115.010. 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:

Final plat means the final map, drawing or chart on which the subdivider's plan of subdivision is presented to the planning commission and the city council for approval, and which, if approved by the city council, will be submitted to the county clerk for recording.

Lot means a parcel or portion of land in a subdivision or plat of land separated from other parcels or portions by description, as on a subdivision or record of survey map or by metes and bounds, for the purpose of sale or lease to, or separate use of, another.

Master plan means a comprehensive plan prepared by or for the planning commission which indicates the general locations recommended for the various functional classes of public works, places and structures, and for the general physical development of the city, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Official map means the map established by the city council showing the streets and highways and parks heretofore laid out, adopted and established by law, and any amendments thereto adopted by the city council or additions thereto resulting from the approval of subdivision plats by the planning commission and the subsequent filing of such approved plats.

Owner means any individual owner, firm, association, syndicate, copartnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the land under this chapter.

Planning commission or commission means the planning commission of the city.

Preliminary plat means the preliminary map, drawing or chart, indicating the proposed layout of the subdivision, to be submitted to the planning commission for its consideration.

Streets and alleys means:

- (1) *Street* means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.
- (2) *Alley* means a minor way which is used primarily for vehicular service access to the back or the side or properties otherwise abutting on a street.
- (3) *Arterial street* means a fast or heavy traffic street of considerable continuity and used primarily as a traffic artery for intercommunication among large areas.
- (4) *Collector street* means a street which carries traffic from minor streets to arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.
- (5) *Cul-de-sac or dead-end street* means a minor street with only one outlet.

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- (6) *Marginal access street* means a minor street which is parallel and adjacent to arterial streets and which provides access to abutting properties and protection from through traffic.
 - (7) *Minor street* means a street used primarily for access to the abutting properties.
 - (8) *Width, street* means the shortest distance between the lines delineating the right-of-way of a street.

Subdivider means any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity commencing proceedings under this chapter to effect a subdivision of land under this chapter for themselves or for another.

Subdivision means the division of a parcel of land into two or more lots, or other divisions of land; it includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

(Code 1974, § 28-1)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 8.115.020. Interpretation and purpose of chapter.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the protection of the public health, safety and welfare. To protect the public, among other purposes, such provisions are intended to provide for permanently wholesome community environment, adequate municipal services and safe streets.

(Code 1974, § 28-2)

Sec. 8.115.030. Applicability and intent of chapter; conflicting provisions.

This chapter shall not apply to any lot forming a part of a subdivision created and recorded prior to November 27, 1972. Nor is it intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those repealed or amended by this chapter, or with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants running with the land to which the city is a party. Where this chapter imposes a greater restriction upon land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

(Code 1974, § 28-3)

Sec. 8.115.040. Compliance with chapter.

No person shall subdivide any tract of land which is located within the city, except in conformity with the provisions of this chapter.

(Code 1974, § 28-4)

ARTICLE 2. PLATS

Division I. Generally

Sec. 8.115.050. Approval prerequisite to recording.

No plat of any subdivision shall be entitled to record in the county clerk's office or have any validity until it shall have been approved in the manner prescribed in this article.

(Code 1974, § 28-5)

State law reference(s)—Approval of plats required before recording, RSMo 89.440.

Sec. 8.115.060. Approval and recording prerequisite to sale of land.

No owner or agent of the owner of any land located within a subdivision shall transfer or sell any land by reference to, exhibition of or by the use of a plan or plat of a subdivision before such plan or plat has been approved and recorded in the manner prescribed in this article. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction under the provisions of this chapter.

(Code 1974, § 28-6)

State law reference(s)—Penalty for sale of lots before plat is recorded, RSMo 445.450.

Sec. 8.115.070. Approval and record prerequisite to issuance of building permits.

The city engineer shall not issue building permits for any structure on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed in this article.

(Code 1974, § 28-7)

Sec. 8.115.080. Revision after approval.

No changes, erasures, modifications or revisions shall be made in any plat of a subdivision after approval has been given by the city council, unless the plat is first resubmitted to the commission.

(Code 1974, § 28-8)

Sec. 8.115.090. Filing fees.

The fees and charges for filing of plats shall be as set forth in a schedule of fees and charges and are to be paid to the city collector by all persons submitting preliminary plans for approval.

(Code 1974, § 28-9)

Division II. Preliminary Plats

Sec. 8.115.100. Generally.

- (a) *Contents.* The preliminary plat shall show, on a map, all the facts needed to enable the commission to determine whether the proposed layout of the land in a subdivision is satisfactory from the standpoint of public interest.

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- (b) *Preparation.* The preliminary plat shall be prepared by a registered engineer or surveyor.
- (c) *Filing.* The subdivider, two weeks prior to the commission meeting at which consideration is desired, shall file an application for preliminary approval with the commission, and five copies of the preliminary plat, according to the standards and other provisions of this article.
- (d) *Approval.*
- (1) *Time requirement.* The planning commission shall take initial action on the preliminary plat within 30 days after filing, unless such time is extended by agreement with the subdivider or the subdivider's agent. If no recommendation is made by the commission within 60 days after filing or such longer period as may have been agreed upon, the preliminary plat as filed shall be deemed approved by the commission.
 - (2) *Notice of action taken.* The commission shall determine whether the preliminary plat shall be approved, approved with modifications or disapproved, and shall give notice to the subdivider in the following manner:
 - a. If approved, the chair of the commission shall affix the chair's signature to the plat and attach thereto a notation that it has received preliminary approval and return it to the subdivider for compliance with final approval requirements.
 - b. If approved with modifications or disapproved, the chair of the commission shall attach to the plat a statement of the reasons for such action and return it to the subdivider. An appeal to the city council shall be allowed on ten days' written notice to the city manager.
- In any case, a notation of the action taken and requisite reasons therefor shall be entered in the records of the commission.

(Code 1974, § 28-10)

Sec. 8.115.110. Form.

The preliminary plat shall be clearly and legibly drawn. The size of the map shall not be less than 12 inches by 18 inches. All subdivisions shall be drawn at a scale of one inch equals 100 feet, unless otherwise required by the commission.

(Code 1974, § 28-11)

Sec. 8.115.120. Map contents.

The preliminary plat shall contain the following information:

- (1) *Description.*
 - a. Proposed name of the subdivision. The name shall not duplicate, be the same in spelling or alike in pronunciation, with any other recorded subdivision.
 - b. Names of adjacent subdivisions.
 - c. Names and addresses of the subdivider, owner and engineer.
 - d. Location by section, town, range, township, county, state.
 - e. Names of streets within the adjoining plat.
- (2) *Existing conditions.*

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- a. Boundaries of the subdivision indicated by a heavy line and the approximate acreage.
 - b. Location, widths and names of existing or platted streets, railroad rights-of-way, easements, parks, permanent buildings, sections and corporation lines.
 - c. Zoning districts, if any.
- (3) *Drafting of plat.* Date of preparation, scale of map, and north point.
 - (4) *Proposals.* Location and principal dimensions for all proposed streets, alleys, easements, lot lines and areas to be reserved for public use.

(Code 1974, § 28-12)

Sec. 8.115.130. Additional required information.

The preliminary plat shall also contain the following additional information:

- (1) Statement of the proposed use of lots, stating type of residential buildings with number of proposed dwelling units; type of business or industry, so as to reveal the effect of the development on traffic, fire hazards or congestion of population.
- (2) Proposed covenants and restrictions.
- (3) Source of water supply.
- (4) Provisions for sewage disposal, drainage and flood control.
- (5) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions.

(Code 1974, § 28-13)

Division III. Final Plats

Sec. 8.115.140. Scope.

The final plat will have incorporated all changes or modifications required by the planning commission. Otherwise, it shall conform to the preliminary plat, and it may constitute only that portion of the approved preliminary plat which the sub divider proposes to record and develop at the time; provided that such portion conforms with all the requirements of this chapter.

(Code 1974, § 28-14)

Sec. 8.115.150. Preparation.

The final plat shall be prepared by a registered engineer or surveyor.

(Code 1974, § 28-15)

Sec. 8.115.160. Filing.

After receiving notice of the action of the planning commission approving the preliminary plat, the subdivider shall proceed to file with the commission:

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- (1) Five paper, two linen and one mylar copy of the final plat.
 - (2) A written application for final approval.
 - (3) Cross sections and profiles of the streets, and all other construction drawings related to public improvements to be constructed in the subdivision.
 - (4) All other documents required by this chapter.

(Code 1974, § 28-16)

Sec. 8.115.170. Approval, notice, signature, etc.

- (a) *Time requirements.* The final plat, in the form of a final tracing, shall then be resubmitted at least 11 working days prior to the meeting at which the plat is to be considered by the planning commission. The commission shall act on the final plat within 30 days after filing, unless such time is extended by agreement with the subdivider or the subdivider's agent. If no final action is taken by the commission within 60 days after filing, or such longer period as may have been agreed upon, the final plat shall be deemed approved by the commission.
- (b) *Notice of action taken.* The commission shall determine whether the final plat shall be approved or disapproved, and transmit its recommendation to the city council. If the final plat is accepted by the city council, it shall be approved by ordinance. The accepting ordinance shall provide for the acceptance of all streets, easements, public ways, parks and other open spaces dedicated to the public. If the commission disapproves or withholds approval of the plat, the subdivider may request that the plat be submitted to the city council. The commission shall forward the plat with the report of the commission, stating the reasons for the action taken, to the city council.
- (c) *Signature.* The final plat, upon approval by the commission and city council, shall be signed by the chair of the commission and the mayor, and attested by the city clerk.
- (d) *Recording.* The subdivider shall record the final plat in the office of the county recorder.
- (e) *Microfilm print.* The subdivider shall, at the time of recording, provide for the recorder of deeds of the county to furnish to the city engineer one 18-inch by 24-inch microfilm print and one 35 millimeter microfilm card of the final recorded plat, as such are available from the recorder.

(Code 1974, § 28-17)

State law reference(s)—Similar provisions, RSMo 89.420.

Sec. 8.115.180. Form.

The final plat shall be clearly and legibly drawn. The size of the map shall not be less than 12 inches by 18 inches. All subdivisions shall be drawn at a scale of one inch equals 100 feet, unless otherwise required by the planning commission.

(Code 1974, § 28-18)

Sec. 8.115.190. Map contents.

The final plat shall contain the following information:

- (1) *Description.*

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- a. Name of the subdivision.
 - b. Names of adjacent subdivisions.
 - c. Names and addresses of the subdivider, owner and engineer.
 - d. Location by section, town, range, township, county and state.
 - e. Names of streets within the adjoining plat.
- (2) *Existing conditions.*
- a. All plat boundaries.
 - b. Bearings and distances to the nearest established street lines, section corners or other recognized permanent monuments, which shall be accurately described on the plat.
 - c. Municipal, township, county or section lines, accurately tied to the lines of the subdivision by distance and bearings.
 - d. Accurate location of all monuments.
- (3) *Survey data.*
- a. Length of all arcs, radii, internal angles, points of curvature and tangent bearings.
 - b. When lots are located on a curve or when side lot lines are at angles other than 90 degrees, the width at the building line shall be shown.
- (4) *Drafting of plat.* Date of preparation, scale of map, and north point.
- (5) *Proposals.*
- a. All easements for right-of-way provided for public services or utilities, and any limitations of such easements.
 - b. All lot numbers and lines, with accurate dimensions in feet and hundredths, and with bearings or angles to street and alley or cross walkway lines.
 - c. Accurate outlines of any areas to be dedicated or temporarily reserved for public use with the purpose indicated thereon.
 - d. Building setback lines, with dimensions.
- (6) *Additional information.*
- a. Protective covenants shall be attached to the plat.
 - b. City engineer's certificate, as required.
 - c. Certification shall be furnished that all taxes and assessments have been paid on the land within the proposed subdivision.

(Code 1974, § 28-19)

ARTICLE 3. DESIGN STANDARDS

Sec. 8.115.200. Conformity with master plan and official map.

The proposed subdivision shall conform to the master plan and the official map.

(Code 1974, § 28-20)

Sec. 8.115.210. Streets.

- (a) *Conformity.* The arrangement, character, extent, width, grade and location of all streets shall conform to the official map and master plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of land to be served by such streets. Where not shown on the official map or master plan, the arrangement and other design standards of streets shall conform to the provisions found in this article.
- (b) *Relation to adjoining street systems.* The arrangement of streets in new subdivisions shall make provisions or the continuation of the existing streets in adjoining areas.
- (c) *Projection of streets.* Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets.
- (d) *Streets to be carried to property lines.* When a new subdivision adjoins unsubdivided land susceptible being divided, the new streets shall be carried to the boundaries of the tract proposed to be subdivided.
- (e) *Dead-end streets; culs-de-sac.* Dead-end streets or culs-de-sac, designed to be so permanently, shall not be longer than 600 feet and shall be provided with a turnaround at the closed end, such turnaround to have an outside road radius of at least 30 feet and a street property line radius of at least 50 feet.
- (f) *Marginal access streets.* Where a subdivision abuts or contains an existing arterial street, the commission may require marginal access streets or other such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- (g) *Minor streets.* Minor streets shall be so laid out that their use by through traffic will be discouraged.
- (h) *Street widths.* Street widths shall be not less than as follows:

Street Type	Right-Of-Way Width	Paving Width
Arterial	80 feet	48—63 feet back to back
Collector	60 feet	36 feet back to back
Minor	50 feet	30 feet back to back
Marginal access	50 feet	30 feet back to back

In front of areas designed and zoned, or where a petition for a change in zoning is contemplated for commercial use, to permit such use, the street width shall be increased by such amount on each side as may be deemed necessary by the commission to ensure the free flow of through traffic without interference by parked vehicles and to provide safe parking space for such commercial or business district.

- (i) *Intersections.* The intersection of more than two streets at one point shall be avoided, except where it is impracticable to secure a proper street system otherwise. Streets shall intersect one another at an angle as near a right angle as possible, and no intersections of streets at angles less than 60 degrees shall be approved. Street intersections shall be rounded with a radius of 15 feet measured at the back of curbs when such intersection occurs at right angles. If an intersection occurs at an angle other than a right angle, it shall be rounded with a curve of a radius acceptable to the commission. In business districts, the commission may permit comparable cutoffs or chords.
- (j) *Street deflections.* When connecting street lines are deflected from each other at any one point by more than 15 degrees, the street lines shall be connected by a curve with a radius adequate to insure a sight distance of not less than 100 feet for minor and collector streets and of such greater radii as the commission shall determine for special cases.

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- (k) *Reverse curves.* A tangent sufficiently long to promote the safe and smooth flow of traffic, generally at least 100 feet, shall be introduced between reverse curves on arterial and collector streets.
- (l) *Subdivision into tracts larger than ordinary building lots.* Where a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further subdivision.
- (m) *Reserve strips.* Reserve strips controlling access to streets shall be prohibited, except under conditions approved by the planning commission.
- (n) *Street grades.* No street grade shall be less than one percent and shall not exceed glowing, unless clearly unreasonable under the circumstances, with due allowance for reasonable vertical curves:

Street Type	Percent Grade
Arterial	8
Collector	10
Minor	10
Marginal access	10

- (o) *Limited access highway abutting subdivision.* Where a subdivision borders on a limited access highway right-of-way, the commission may require such subdivision to have a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
- (p) *Half street prohibited.* Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided.
- (q) *Street names and numbers.* Names of new streets shall not duplicate existing or platted street names, unless a new street is a continuation of, or in alignment with, the existing or platted street. House numbers shall be assigned in accordance with the house numbering system now in effect in the city.
- (r) *Vacation of streets.* The planning commission shall not recommend the vacation of any street or part of a street dedicated for public use, if such vacation interferes with the uniformity of the existing street pattern or any future plans prepared for the area.
- (s) *Private streets.* Private streets shall not be approved, nor shall public improvements be approved for any private street.
- (t) *Hardship to owners of adjoining property avoided.* The street arrangements shall not be such as to cause hardship to the owner so adjoining property in platting such owner's own land and providing convenient access to it.

(Code 1974, § 28-21)

Sec. 8.115.220. Alleys.

- (a) *Residential areas.* Alleys shall not be permitted in residential areas.
- (b) *Commercial and industrial districts.* Alleys shall be provided in commercial and industrial districts; except that the commission may waive this requirement where other definite and assured provision is made for service

access, such as off-street loading, unloading and parking, consistent with and adequate for the uses proposed.

- (c) *Width.* The right-of-way width of an alley shall be 20 feet.
- (d) *Dead-end.* Dead-end alleys shall not be permitted; except that the commission may waive this requirement where such dead-end alley is unavoidable and where adequate turnaround facilities have been provided.

(Code 1974, § 28-22)

Sec. 8.115.230. Easements.

- (a) *Providing for utilities.* Easements with a right-of-way width of five feet shall be provided on each side of all rear lot lines where necessary for utilities.
- (b) *Providing for drainage.* Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose.

(Code 1974, § 28-23)

Sec. 8.115.240. Blocks.

- (a) *Factors governing dimensions.* Block length and width or acreage within bounding roads shall be such as to accommodate the size of the lot required in the area by the zoning ordinance (title VII), and to provide for convenient access, circulation control and safety of street traffic.
- (b) *Lengths.* Block lengths shall not exceed 1,500 feet or be less than 250 feet.
- (c) *Arrangement.* A block shall be so designed as to provide two tiers of lots.

(Code 1974, § 28-24)

Sec. 8.115.250. Lots.

- (a) *Dimensions.* The minimum width of a lot for residential development shall be 70 feet for a rectangular lot and not less than 70 feet at the front building line for lots the side lines of which are radial to curved streets, except that two-family dwellings which otherwise comply with the codes and ordinances of the city may be divided at the party wall as to ownership and owned as separate dwelling units by separate owners, and such ownership shall not constitute a violation of the lot and yard requirements of this chapter. The depth of the lot shall not be less than 110 feet, except in unusual situations. Side lot lines shall be nine feet. Minimum lot area shall be 8,400 square feet. Excessive depth in relation to width shall be avoided.
- (b) *Location.* All lots shall abut by their full frontage on a publicly dedicated street, or a street that has received the legal status as such.
- (c) *Lines.* Side lot lines shall be substantially at right angles to straight lines or radial to curved street lines.
- (d) *Corner lots.* Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both streets. Buildings on corner lots, where interior lots have been platted, fronting on the side street, may project not more than ten feet in front of the building line established for the interior lots on the side street.

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- (e) *Uninhabitable lots.* Lots subject to flooding and lots deemed by the commission to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions.

(Code 1974, § 28-25; Ord. No. 3.546, § 1, 8-26-1996)

Sec. 8.115.260. Public sites and open spaces.

- (a) *Generally.* A subdivider shall dedicate reasonably adequate open spaces necessary or public uses indicated on the city plan. Such spaces shall be determined initially by the planning commission, following a conference or hearing at which the subdivider shall be present; shall be consistent with the public health, safety, morals and welfare; and shall not be required to exceed 7½ percent of the overall area proposed for subdividing; provided that a preliminary proposal may be made by the subdivider (or applicant for a plat) to the planning commission, which shall demonstrate, generally, what land the subdivider proposes to dedicate, or, in lieu thereof, the subdivider may indicate the subdivider's agreement to paying the sum prescribed by subsection (c) of this section, without recourse or right of recovery. Final determination as to dedication of land, including selection thereof or acceptance of money, if offered (which acceptance shall not be mandatory, the city having the right to require land) shall be by the council.
- (b) *Dedication.* Any dedication shall be by deed or plat and subject to council approval. Such land shall be reasonably located within the subdivision and shall be a single tract. The city may, in a proper case, agree (on terms acceptable to the council) to reimburse the subdivider for improvements abutting on dedicated land on a cost basis.
- (c) *Special park and playground fund.* In those instances in which the subdivider elects to contribute money and no dedication is required, the subdivider shall pay to the city the sum of \$50.00 per lot or \$200.00 per acre, whichever is the lesser, for each lot or acre in the subdivision. A subdivider shall elect to pay, either on a lot or acreage basis, for the entire subdivision, and fractional acres shall be prorated if payment on an acre basis is elected. Sums so received shall be placed in a special fund to be known as the "special park and playground fund" and shall be used by the city for the purchase of or in connection with maintaining or improving city parks or playgrounds (so as to benefit such subdivisions). The subdivider shall pay such sums before the final plat is approved, or the city may agree to an installment method of payment based on the sale of lots; provided that the city building inspector shall not issue a building permit for any lot in a new subdivision until the \$50.00 per lot or \$200.00 per acre upon which the lot in question is located has been paid.
- (d) *Drainage easements.* Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided utility easements and drainage rights-of-way, conforming substantially to the lines of such watercourses or drainage rights-of-way, including future expansion reasonably anticipated.
- (e) *Preservation of existing conditions.* Natural features such as trees, brooks, hill tops and views shall be preserved wherever possible. Artificial and natural lakes and wooded areas are to be preserved and encouraged as much as possible.

(Code 1974, § 28-26)

ARTICLE 4. REQUIRED IMPROVEMENTS

Sec. 8.115.270. Improvements or bonds required.

- (a) Before any building permit shall be issued with respect to any lot contained in a recorded subdivision, the following requirements shall be met:
- (1) All storm sewers and drainage structures shall be completed or, in lieu of completion, a bond executed by an approved surety company shall be furnished to the city in an amount equal to 100 percent of the city engineer's estimated cost of construction of such improvements. A bona fide, binding bid by a contractor may be substituted for the engineer's estimate to establish the cost of improvements. The surety will be subject to the condition that the improvements will be completed within 12 months from the date of the bond, and in the event they are not completed, the city shall proceed with the work and hold the owner and surety company jointly responsible for the costs thereof.
 - (2) Paving on any street adjacent to such lot shall be completed for the length of the block in which the lot is located. In lieu of the completion of the paving or any portion thereof, a bond executed by an approved surety company shall be furnished to the city in an amount equal to 100 percent of the city engineer's estimated cost of the construction of that portion yet to be completed. A bona fide, binding bid by a paving contractor may be substituted for the engineer's estimate to establish the cost of the improvements. The surety will be subject to the condition that the improvements will be completed within 12 months from the date of the bond, and in the event they are not completed, the city shall proceed with the work and hold the owner and the surety company jointly responsible for the costs thereof.
 - (3) Upon the recommendation of the city manager, the city council may accept in lieu of the aforesaid bonds, or as partial compliance with such bond provisions, a statement by the applicant that an escrow agreement for postponed improvements as prescribed by the Veterans Administration and Federal Housing Administration has been entered into. Such statement shall be accompanied by a certified copy of the completed schedule of improvements to be postponed and the executed agreement.
- (b) Each person submitting a plat for approval shall execute an agreement before final approval substantially as follows:
- In consideration of the approval by the City of Gladstone of the plat of _____, the undersigned agrees to be bound by and comply with the provisions of Ordinance No. _____, incorporated herein by reference, including without limitation, an agreement that building permits may be withheld until the undersigned complies with section 8(b) of such ordinance. No lot not improved as provided therein, or covered by a bond, shall be sold, leased or conveyed to another without the consent of the city council. Notification of any contract of sale or agreement to sell or convey shall be given in writing to the city council at least ten days before any contract or agreement relating to such a lot is entered into. The prospective purchaser's name and address shall be clearly set forth in such notice.
- (c) No lot not improved as provided in this chapter or covered by a bond shall be sold, leased or conveyed to another without the consent of the city council. Notification of any contract of sale or agreement to sell or convey shall be given in writing to the city council at least ten days before any contract or agreement relating to such a lot is entered into. The prospective purchaser's name and address shall be clearly set forth in such notice.
- (d) Before any street, avenue or public highway improvement shall be accepted by the city for maintenance, it shall be inspected by the city engineer. Acceptance shall not be granted without the submission by the paving contractor requesting acceptance of an affidavit stating that the streets, avenues or highways and appurtenances thereto have been constructed in compliance with the standard specifications of the city. Such contractor shall also deposit with the city a corporate or cash bond in the form reasonably acceptable to the city manager, conditioned upon the proposition that all work has been done in accordance with the

city's specifications and guaranteeing all work for a period of three years. The amount of such bond shall be 50 percent of the estimated cost or actual cost of the street involved, whichever is the lesser.

(Code 1974, § 28-27)

Sec. 8.115.280. Enumeration of required improvements.

- (a) *Monuments.* Monuments consisting of iron pins at least one-half inch in diameter and 24 inches long shall be placed at all lot corners, block corners, angle points, points of curves in streets and at intermediate points as shall be reasonably required by the city engineer. The location of monuments shall be shown on the final plat.
- (b) *Streets.*
 - (1) *Surfacing.* All streets shall be surfaced in accordance with applicable standard specifications of the city. Such construction shall be subject to inspection and approval by the city engineer.
 - (2) *Curbs, gutters and drainage.* Curbs, gutters, drainage and drainage structures shall be provided in accordance with standard specifications of the city. Such construction shall be subject to the inspection and approval of the city engineer.
 - (3) *Sidewalks.* Sidewalks shall be required on both sides of each street, the construction of which shall be the responsibility of the individual builder on each lot.
 - (4) *Street signs.* The city shall provide street name signs at all street intersections in the subdivision. The cost of installation of such signs shall be billed to and paid for by the developer.
- (c) *Water supply.* All lots within a subdivided area shall be provided with an accessible connection to the city water system or approved public water supply. No development will be permitted where such provision has not been made.
- (d) *Sanitary sewer.* All lots within a subdivided area shall be provided with an accessible connection to a public sanitary sewer. No development will be permitted where such provision has not been made.

(Code 1974, § 28-28)

ARTICLE 5. VARIANCES

Sec. 8.115.290. Commission may recommend variance under certain conditions.

The planning commission may recommend a variance from this chapter when, in its opinion, undue hardship may result from strict compliance. In recommending any variance, the commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required in this section, the commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be recommended unless the commission finds:

- (1) That there are special circumstances or conditions affecting the property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the applicant's land.
- (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

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- (3) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which such property is situated.

(Code 1974, § 28-29)

Sec. 8.115.300. Application.

Application for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the planning commission. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.

(Code 1974, § 28-30)

Sec. 8.115.310. Commission to forward certain proposals to board of zoning adjustment.

In any instance wherein the planning commission, pursuant to its powers under this chapter, shall contemplate recommending a variance from the subdivision regulations set out in this chapter, which would put the contemplated use of such land in probable violation of zoning ordinances of the city, the commission shall first forward its proposal to the board of zoning adjustment for the purpose of considering such variance.

(Code 1974, § 28-31)

Sec. 8.115.320. Powers generally of board of zoning adjustment.

The board of zoning adjustment shall have power to vary or modify the application of zoning regulations of the city relating to the use of land platted; provided that the spirit of such regulations and ordinances shall be observed, public safety and welfare secured, and substantial justice done.

(Code 1974, § 28-32)

Sec. 8.115.330. Hearing; notice; decision.

Subsequent to the combined meeting, the board of zoning adjustment shall fix a reasonable time for hearing the matter, give at least 15 days' public notice thereof, by newspaper advertising, including due notice by ordinary mail to the party requesting the variance, and decide the matter within a reasonable time.

(Code 1974, § 28-33)

Sec. 8.115.340. Transmission of decision to planning commission; presentation to city council.

The decision of the board of zoning adjustment shall be transmitted forthwith to the planning commission, which will then present the entire matter to the city council in accordance with the provisions of this chapter.

(Code 1974, § 28-34)

CHAPTER 120. STREETS AND SIDEWALKS⁶⁰

- CODE OF ORDINANCES
Title VIII - LAND AND DEVELOPMENT ORDINANCE (LADO)
CHAPTER 120. STREETS AND SIDEWALKS

⁶⁰Cross reference(s)—Any ordinance naming, renaming, opening, accepting or vacating streets or alleys in the city saved from repeal, § 1.100.150Cross reference(s)—(10); depositing solid waste on street or sidewalk, § 2.115.020Cross reference(s)—; parks and recreation, § 2.130.010Cross reference(s)— et seq.; aggressive solicitation, § 5.160.200Cross reference(s)— et seq.

- CODE OF ORDINANCES
Title VIII - LAND AND DEVELOPMENT ORDINANCE (LADO)
CHAPTER 120. - STREETS AND SIDEWALKS
ARTICLE 1. IN GENERAL

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Sec. 8.120.010. Specifications.

The new construction of concrete streets within the city is prohibited. All streets and sidewalks within the city shall be constructed according to the requirements set forth in chapter 115 of this title and title VII of this Code and in the technical specifications and design criteria manual of the city as adopted by resolution of the city council from time to time. In the absence of such specifications adopted by the city, such public improvements shall be constructed according to the requirements set forth in the Standard Specifications and Design Manual of the Kansas City Metropolitan Chapter of the American Public Works Association (APWA), as amended. Any conflict between this Code or city technical specifications and the APWA shall be resolved in favor of the Code first, then in favor of the city technical specifications and finally by APWA. A written clarification or opinion may be requested from the city engineer by any person involved in the construction of public improvements.

(Ord. No. 3.621, § 1(33.800.010), 7-28-1997)

Sec. 8.120.020. Dirt, earth, rock, rubbish, etc.; deposit prohibited; removal of dirt, rock, etc., spilled or deposited on street required; revocation of construction permits; penalties for violation.

- (a) No person shall deposit or permit to be deposited in any manner, upon the surface of any street, avenue, alley, highway, footway, sidewalk, parkway or other public space within the corporate limits of the city, either by placing, spilling, dumping, depositing, dropping or tracking from wheels of vehicles, or otherwise, any earth, clay, mud, sand, gravel or other material. If such deposit occurs, the person in charge of the construction project from which the material originated shall daily remove the material and shall return the street, avenue, alley, sidewalk or other public place to its former condition to the satisfaction of the public improvement official or the public improvement official's authorized representative.
- (b) Upon failure by any person responsible for permitting deposits to be made in public spaces to remove such deposits as required, the public improvement official or the public improvement official's authorized representative may revoke each and every permit for development on the site from which the materials are being spilled, dropped, hauled or tracked onto the public spaces. Such permit shall not be renewed until such time as the public streets, avenues, alleys, sidewalks and for public places have been cleaned to the satisfaction of the public improvement official or the public improvement official's authorized representative. Such right of revocation shall be in addition to other penalties provided for in this chapter.

(Ord. No. 3.621, § 1(33.800.020), 7-28-1997)

Cross reference(s)—Solid waste and litter, § 2.115.010Cross reference(s)— et seq.

Sec. 8.120.030. Permit required to remove material composing street, sidewalk etc.

No person shall dig up, remove, loosen, take away, or carry away any stone, brick, lumber, plank, blocks, earth, sand, gravel or any other material composing any street, sidewalk, curbing, crossing or public grounds, whether the material is free or loosened or not, without obtaining a permit from the public improvement official

and paying the fee for the permit in the amount established by the schedule of fees and charges, as amended from time to time.

(Ord. No. 3.621, § 1(33.00.030), 7-28-1997)

Sec. 8.120.040. Sidewalks required.

No permit shall be issued for the construction, improvement, alteration, or repair of any building or land unless sidewalks shall be constructed, in accordance with the technical specifications and design criteria manual of the city, along the whole frontage of such property. The planning official and public improvement official, in its discretion, may permit the applicant to pay to the city an amount equal to the engineer's estimated cost for constructing such sidewalk, in lieu of actually constructing such sidewalk. Such payment shall be deposited by the city in a special account for sidewalk construction, and shall be used only for the construction of such sidewalk. Such payment shall be in full satisfaction of the applicant's obligation to construct such sidewalk.

(Ord. No. 3.621, § 1(33.800.040), 7-28-1997)

Sec. 8.120.050. Sidewalk variances; exceptions; bond required.

- (a) The city council, by resolution, may waive the requirements of section 8.120.040, if it determines that undue hardship may result from strict compliance therewith. The conditions for granting a waiver shall be as set out in chapter 115 of this title and title VI, chapter 110 of this Code.
- (b) Upon recommendation of the city manager, the city council may accept, in lieu of completion of the sidewalks required by section 8.120.040, a bond executed by an approved surety company, in an amount equal to 100 percent of the engineer's estimated cost of construction of such sidewalk improvement, conditioned that such sidewalk improvement will be completed within 12 months from the date of such bond and, in the event that such sidewalk is not completed within such time, that the city shall proceed with the work and hold the owner and surety company jointly responsible for the cost thereof.

(Ord. No. 3.621, § 1(33.800.050), 7-28-1997)

ARTICLE 2. VACATIONS⁶¹

⁶¹State law reference(s)—Authority of city with regard to streets and sidewalks generally, RSMo 77.520; procedure for vacation of streets by third class cities, RSMo 88.637.

Sec. 8.120.060. Purpose.

In order that there may be due process and notice with respect to the vacation of any public square, park, street, avenue, alley, highway, roadway, pedestrian way, easement, right-of-way or other public way or use in the city, this article is adopted to provide for the procedure and notice of any such proposed vacation.

(Code 1974, § 27-44)

Sec. 8.120.070. Beginning of proceedings; resolution or petition.

- (a) Proceedings for any such proposed vacation or termination may be begun by either of the following methods:
 - (1) By resolution of the city council, of the city, upon its own motion, duly passed at any regular or special meeting thereof.
 - (2) By written petition of any person or corporation owning property fronting or abutting any land included in or subject to use by such public square, park, street, avenue, alley, highway, roadway, pedestrian way, easement, right-of-way or other public way or use, in the city, proposed to be vacated or terminated, addressed to the city council and verified by affidavit of petitioner, if an individual, or an officer thereof if the petitioner is a corporation, which petition shall be filed with the city clerk prior to any action thereon by the city council.
- (b) Such resolution or petition shall accurately describe the land as to which such vacation or termination is sought.

(Code 1974, § 27-45)

Sec. 8.120.080. Publication of notice; contents.

Promptly upon the adoption of such resolution, or the filing of such petition, the city clerk, over his/her hand, shall give notice of the adoption of such resolution or the filing of such petition by publication in a weekly newspaper printed and published in the county, and having a general circulation in the city, for two consecutive issues of such newspaper, the last publication to be not more than ten days prior to the date and time to be stated therein upon which the resolution or petition shall be considered by such city council and which notice shall contain a description of the land as to which such vacation or termination is sought, and shall state the time and place of a meeting of the city council at which such council shall consider the resolution or petition.

(Code 1974, § 27-46)

Sec. 8.120.090. Deposits.

If the vacation proceeding is begun by the petition of an abutting property owner, the petitioner shall deposit an amount as set out in the schedule of fees and charges as a deposit for the payment of costs and expenses which may be incurred by the city by reason of such proceedings and shall further pay any other costs or expenses incident to the filing of such petition, the giving of such notice and the filing for record of a certified copy of any ordinance which may be passed in pursuance of such vacation. The petitioner shall pay any expenses not covered by deposit.

(Code 1974, § 27-47; Ord. No. 3.081, § 1, 6-8-1992)

Sec. 8.120.100. Consideration of resolution or petition by planning commission.

All applications for vacation, whether by resolution or petition or otherwise, shall first be submitted to the planning commission of the city, to be acted upon in accordance with section 1.110.130. The city manager shall be advised, in writing, of the action taken by the planning commission with regard to such resolution or petition within three days after the first meeting of the planning commission held after submission of such resolution or petition.

(Code 1974, § 27-48)

Sec. 8.120.110. Vacations affecting public or city utilities or easements.

No resolution or petition shall be considered unless attached thereto are copies of letters (or affidavits if required) from all utilities, including municipal utilities, which may be affected by vacation. Such letters or affidavits shall state whether or not there are any existing facilities and whether or not the utility has any objection to vacation of the easement or other interest.

(Code 1974, § 27-49)

Sec. 8.120.120. Plats.

Plats may be vacated by following the required provisions for vacating all interests shown therein, including streets, easements, etc.

(Code 1974, § 27-50)

Sec. 8.120.130. Consideration of resolution or petition by city council; vacation by ordinance.

If, upon the consideration of the resolution or petition, and after such notice, the city council shall deem it necessary to vacate or terminate such public square, park, street, avenue, alley, highway, roadway, pedestrian way, easement, right-of-way or other public way or use, or any part thereof, the council may by ordinance, duly introduced, read and passed according to law, declare the public square, park, street, avenue, alley, highway, roadway, pedestrian way, easement, right-of-way or other public way or use to be duly vacated and/or terminated.

(Code 1974, § 27-51)

Sec. 8.120.140. Determinations prerequisite to granting.

No vacation shall be made by the council if it is determined that there will be damage to any person, unless compensation is provided therefor. In each case where a vacation is granted, the council shall determine that the interest in question is not necessary to the public welfare and is not presently in use.

(Code 1974, § 27-52)

Sec. 8.120.150. Effect on existing uses; specific provisions to be included in every vacation ordinance.

Each and every ordinance drawn to affect a vacation shall specifically provide as follows: "The city (as well as any utility affected) retains the right to maintain, operate, repair and replace, by itself or by any licensee or a holder of a franchise from the city, any poles, wires, pipes, conduits, sewer mains, water mains, or any other facility or equipment for the maintenance or operation of any utility now located in the area affected by this vacation."

(Code 1974, § 27-53)

Sec. 8.120.160. Reversion of title.

Whenever any such vacation or termination shall be made the title in land affected thereby shall pass or revert according to law.

(Code 1974, § 27-54)

*ARTICLE 3. STREET EXCAVATIONS*⁶²

⁶²Cross reference(s)—Building and construction, title IX.

Sec. 8.120.170. Permit required for street excavation.

It shall be unlawful for any person to dig up, break, excavate, tunnel, undermine or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street for any purpose or to place, deposit or leave upon any street any earth or other excavated material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained an excavation permit therefor from the public improvement official as provided in this article.

(Ord. No. 3.621, § 1(33.500.010), 7-28-1997)

Sec. 8.120.180. Application for permit.

No excavation permit shall be issued unless a written application for the issuance of an excavation permit is submitted to the public improvement official. The written application shall state the name and address of the applicant, the nature, location and purpose of the excavation, and other data as may reasonably be required by the public improvement official. The application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to such excavation and of the proposed excavated surfaces, the location of the excavation work, and other such information as may reasonably be required by the public improvement official.

(Ord. No. 3.621, § 1(33.500.020), 7-28-1997)

Sec. 8.120.190. Permit application fee.

A permit fee as established by the schedule of fees and charges, as amended, shall be charged by the public improvement official for the issuance of an excavation permit, which shall be in addition to all other fees for permits or charges relative to any proposed construction work.

(Ord. No. 3.621, § 1(33.500.030), 7-28-1997)

Sec. 8.120.200. Issuance and form of excavation placard; display required; unlawful display prohibited.

The public improvement official shall provide each permittee at the time a permit is issued hereunder a suitable placard plainly written or printed in English letters at least one inch high with the following notation: "CITY OF GLADSTONE, PERMIT NO. _____, EXPIRES _____", and in the first blank space there shall be inserted the number of such permit. and after the word "expires" shall be stated the date when such permit expires. It shall be the duty of any permittee hereunder to keep the placard posted in a conspicuous place at the site of the excavation work. It shall be unlawful for any person to exhibit such placard at or about any excavation not covered by such permit, or to misrepresent the number of the permit or the date of expiration of the permit.

(Ord. No. 3.621, § 1(33.500.040), 7-28-1997)

Sec. 8.120.210. Cash deposit required.

The application for an excavation permit to perform excavation work under this article shall be accompanied with a cash deposit, made to the public improvement official for deposit with the city treasurer, as follows: A sum equal to \$2.00 per square foot of surface of each excavation to be made in streets which have been paved; a sum equal to \$1.00 for each square foot of surface of each excavation to be made in streets which have been

macadamized; a sum equal to \$0.50 for each square foot of surface of each such excavation to be made in streets which are neither macadamized nor paved. No deposit shall be less than \$25.00. Any person intending to make openings, cuts or excavations in streets may make and maintain with the city treasurer a general deposit in the sum of \$500.00, and the person so depositing shall not be required to make the special deposits provided in this section, but shall, however, be required to comply with all other applicable provisions of this article. Any special or general deposit made under this article shall serve as security for the repair and performance of work necessary to put the street in as good a condition as it was prior to the excavation if the permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation work under the excavation permit. Upon the permittee's completion of the work covered by such permit in conformity with this article as determined by the public improvement official, two-thirds of such cash deposit, except in the case of a general deposit, shall be promptly refunded by the city to the permittee, and the balance shall be refunded by the city to the permittee upon the expiration of a 24-month period; provided that, as to any general deposit, two-thirds thereof shall be refunded by the city at the end of a one-year period for which the deposit is made, or the satisfactory completion of all excavation work undertaken during such period, whichever is later, and the balance of the general deposit shall be refunded at the expiration of a 24-month period following the completion of such excavation work; and provided further that the city may use any or all of any such deposit to pay the cost of any work the city performs to restore or maintain the street as provided in this article in the event the permittee fails to perform such work, in which event the amount refunded to the permittee shall be reduced by the amount thus expended by the city.

(Ord. No. 3.621, § 1(33.500.050), 7-28-1997)

Sec. 8.120.220. Routine of traffic: steps to be taken prerequisite to closing, etc., of highway.

The permittee shall take appropriate measures to ensure that during the performance of the excavation work, traffic conditions as nearly normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public; provided that the public improvement official may permit the closing of the streets to all traffic for a period of time prescribed by the public improvement official if, in such official's opinion, it is necessary. The permittee shall route and control traffic, including its own vehicles, as directed by the city ~~public safety~~police department. The following steps shall be taken before any highway may be closed or restricted to traffic:

- (1) The permittee must receive the approval of the public improvement official, the planning official and the ~~public safety~~police department therefor.
- (2) The permittee must notify the ~~director of public safety~~Chief of Police of any street so closed.
- (3) Upon completion of construction work, the permittee shall notify the public improvement official and city ~~public safety~~police department before traffic is moved back to its normal flow, so that any necessary adjustments may be made.
- (4) Where flagmen are deemed necessary by the public improvement official, they shall be furnished by the permittee at its own expense. Through traffic shall be maintained without the aid of detours, if possible. In instances in which this is not feasible, the public improvement official will designate detours. The city shall maintain roadway surfaces of existing highways designated as detours without expense to the permittee, but in case there are no existing highways, the permittee shall construct all detours at its expense and in conformity with the specifications of the public improvement official. The permittee will be responsible for any unnecessary damage caused to any highways by the operation of its equipment.

(Ord. No. 3.621, § 1(33.500.060), 7-28-1997)

Sec. 8.120.230. Clearance required for fire department.

The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fireplugs. Passageways leading to fire escapes or firefighting equipment shall be kept free of piles of material or other obstructions.

(Ord. No. 3.621, § 1(33.500.070), 7-28-1997)

Sec. 8.120.240. Protection of traffic.

The permittee shall erect and maintain suitable timber barriers to confine earth from trenches or other excavations in order to encroach upon highways as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across highways under improvement to accommodate vehicular and pedestrian traffic at all street intersections.

(Ord. No. 3.621, § 1(33.500.080), 7-28-1997)

Sec. 8.120.250. Removal and protection of utilities.

The permittee shall not interfere with any existing utility without the written consent of the public improvement official and the utility company or person owning the utility. If it becomes necessary to remove an existing utility, this shall be done by the owner. No utility owned by the city shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee, unless it makes other arrangements with the person owning the utility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across such work. In case any of such pipes, conduits, poles, wires or apparatus shall be damaged, they shall be repaired by the agency or person owning them, and the expense of such repairs shall be charged to the permittee, and the permittee or the permittee's cash deposit shall be liable therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipes, electric conduit or other utility and permittee's cash deposit shall be liable therefor. The permittee shall inform itself as to the existence and location of all underground utilities and protect the utilities against damage.

(Ord. No. 3.621, § 1(33.500.090), 7-28-1997)

Sec. 8.120.260. Protection of adjoining property.

The permittee shall at all times and at its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain a license from the owner of such private property for such purpose. The permittee shall, at its own expense, shore up and protect all buildings, walls, fences, or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out such work. Whenever it may be necessary for the permittee to trench through any lawn areas, the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this article. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible of that which existed before such work began. The permittee shall not remove even temporarily any trees or shrubs which exist in parking strip areas or easements across private property without

first having notified and obtained the consent of the property owner, or in the case of public property, the appropriate city department or city official having control of such property.

(Ord. No. 3.621, § 1(33.500.100), 7-28-1997)

Sec. 8.120.270. Footbridge required for sidewalk excavations.

At the direction of the public improvement official, any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over such excavation on the line of the sidewalk, which bridge shall be at least three feet wide and securely railed on each side so that foot passengers can pass over safely at all times.

(Ord. No. 3.621, § 1(33.500.110), 7-28-1997)

Sec. 8.120.280. Protective barriers and lights.

The permittee shall erect such fence, railing or barriers about the site of the excavation work as shall prevent danger to persons using the city streets or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the danger removed. At twilight, there shall be placed upon such place of excavation and upon any excavated materials or structures or other obstructions to streets suitable and sufficient lights, which shall be kept burning throughout the night during the maintenance of such obstructions. It shall be unlawful for anyone to remove or tear down the fence or railing or other protective barriers or any lights provided there for the protection of the public.

(Ord. No. 3.621, § 1(33.500.120), 7-28-1997)

Sec. 8.120.290. Attractive nuisances prohibited.

It shall be unlawful for the permittee to suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance likely to attract children and hazardous to their safety or health.

(Ord. No. 3.621, § 1(33.500.130), 7-28-1997)

Sec. 8.120.300. Care of excavated material.

All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the public improvement official shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage, disposal sites and hauling.

(Ord. No. 3.621, § 1(33.500.140), 7-28-1997)

Sec. 8.120.310. Repair of damage to existing improvements.

All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials for such repair shall conform with the requirements of any applicable code or ordinance. If, upon being ordered, the permittee fails to furnish the necessary labor and materials for such repairs, the public improvement official shall have the authority to cause such necessary labor and materials to be furnished by the city, and the cost will be charged against the permittee, and the permittee shall also be liable from the permittee's cash deposit therefor.

(Ord. No. 3.621, § 1(33.500.150), 7-28-1997)

Sec. 8.120.320. Work to be within property lines and limits of easements.

Property lines and limits of easements shall be indicated on the plan of excavation submitted with the application for the excavation permit, and it shall be the permittee's responsibility to confine excavation work within these limits.

(Ord. No. 3.621, § 1(33.500.160), 7-28-1997)

Sec. 8.120.330. Cleanup requirements.

As the excavation work progresses, all streets and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the public improvement official. From time to time as may be ordered by the public improvement official, and in any event immediately after completion of such work, the permittee shall at the permittee's own expense clean up and remove all refuse and unused materials of any kind resulting from such work and, upon failure to do so within 24 hours after having been notified to do so by the public improvement official, such work may be done by the public improvement official and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the required cash deposit.

(Ord. No. 3.621, § 1(33.500.170), 7-28-1997)

Sec. 8.120.340. Protection of watercourses; surplus water etc.

The permittee shall provide for the flow of all watercourses, sewers or drains intercepted during the excavation work and shall replace the watercourses, sewers or drains in as good condition as the permittee found them or shall make such provisions for them as the public improvement official may direct. The permittee shall not obstruct the gutter of any street, but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provision to take care of all surplus water, muck, silt, slickings or other runoff pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

(Ord. No. 3.621, § 1(33.500.180), 7-28-1997)

Sec. 8.120.350. Breaking through existing pavement.

Whenever it is necessary to break through existing pavement for excavation purposes, the pavement in the base shall be removed to at least 12 inches beyond the outer limits of the subgrade that is to be disturbed in order to prevent settlement, and a 12-inch shoulder of undisturbed material shall be provided in each side of the

excavated trench. The face of the remaining pavement shall be approximately vertical. A power driven concrete saw shall be used so as to permit complete breakage of concrete pavement or base without ragged edges. Asphalt paving shall be scored or otherwise cut in a straight line. No pile driver may be used in breaking up the pavement.

(Ord. No. 3.621, § 1(33.500.190), 7-28-1997)

Sec. 8.120.360. Tunnels.

Tunnels under pavement shall not be permitted except by permission of the public improvement official and, if permitted, shall be adequately supported by timbering and backfilling under the directions of the public improvement official.

(Ord. No. 3.621, § 1(33.500.200), 7-28-1997)

Sec. 8.120.370. Backfilling.

Backfilling in any street opened or excavated pursuant to an excavation permit issued hereunder shall conform to the requirements of the technical specifications and design criteria manual of the city.

(Ord. No. 3.621, § 1(33.500.210), 7-28-1997)

Sec. 8.120.380. Restoration of surfaces; time limit for city to assert claim against permittee, etc., under surety bond.

The permittee shall restore the surface of all streets broken into or damaged as a result of the excavation work, to its original condition in accordance with the specifications of the city. The permittee may be required to place a temporary surface over openings made in paved traffic lanes. Acceptance or approval of any excavation work by the public improvement official shall not prevent the city from asserting a claim against the permittee and for the permittee's cash deposit for incomplete or defective work if discovered within 24 months from the completion of the excavation work. The engineer's presence during the performance of any excavation work shall not relieve the permittee of its responsibility under this article.

(Ord. No. 3.621, § 1(33.500.220), 7-28-1997)

Sec. 8.120.390. Right of city to restore surface; liability of permittee.

If the permittee shall fail to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit, or shall otherwise fail to complete the excavation work covered by such permit, the public improvement official, if the public improvement official deems it advisable, shall have the right to do all work and things necessary to restore the street and to complete the excavation work. The permittee shall be liable for the actual cost thereof, and 25 percent of such cost in addition for general overhead and administrative expenses. The city shall have a cause of action for all fees, expenses and amounts paid out and due it for such work and shall apply in payment of the amount due it any funds of the permittee deposited as provided in this article, and the city shall also enforce its rights under the permittee's surety bond provided pursuant to this article.

(Ord. No. 3.621, § 1(33.500.230), 7-28-1997)

Sec. 8.120.400. Trenches used in pipe laying.

Except by special permission from the public improvement official, no trench shall be excavated more than 250 feet in advance of pipe laying, nor left unfilled more than 500 feet where pipe has been laid. The length of the trench that may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the site ready to be put in place. Trenches shall be braced and sheathed according to generally accepted safety standards for construction work as prescribed by the public improvement official. No timber bracing, lagging, sheathing or other lumber shall be left in any trench.

(Ord. No. 3.621, § 1(33.500.240), 7-28-1997)

Sec. 8.120.410. Prompt completion of work required.

The permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition, or as near as may be, as soon as practicable and in any event, not later than the date specified in the excavation permit therefor.

(Ord. No. 3.621, § 1(33.500.250), 7-28-1997)

Sec. 8.120.420. Power of public improvement official to order employment of workers 24 hours a day.

If, in the planning official's and/or public improvement official's judgment, traffic conditions, the safety or convenience of the traveling public, or the public interest require that the excavation work be performed as emergency work, the planning official and/or public improvement official shall have full power to order, at the time the permit is granted, that a crew of workers and adequate facilities be employed by the permittee 24 hours a day, to the end that such excavation work may be completed as soon as possible.

(Ord. No. 3.621, § 1(33.500.260), 7-28-1997)

Sec. 8.120.430. Emergency repairs without permit.

In the event of any emergency in which a sewer, a main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining an excavation permit under this article, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individual. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the engineer's office is open for business and shall not proceed with permanent repairs without first obtaining an excavation permit under this article.

(Ord. No. 3.621, § 1(33.500.270), 7-28-1997)

Sec. 8.120.440. Noise, dust and debris.

Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and, during the hours between 10:00 p.m. and 7:00 a.m. shall not use, except with

the express written permission of the public improvement official, or in case of an emergency as otherwise provided in this article, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

(Ord. No. 3.621, § 1(33.500.280), 7-28-1997)

Sec. 8.120.450. Inspection; promulgation and enforcement of rules and regulations.

The public improvement official shall make such inspections as are reasonably necessary in the enforcement of this article. The public improvement official shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this article.

(Ord. No. 3.621, § 1(33.500.290), 7-28-1997)

Sec. 8.120.460. Applicability of article to city employees or city contractors.

All persons performing excavation work under the direction of the city or by any contractor of the city performing work for and in behalf of the city shall not be required to apply for a permit or provide deposits, but shall be required to perform the work and bring it to completion as promptly as practicable.

(Ord. No. 3.621, § 1(33.500.300), 7-28-1997)

Sec. 8.120.470. Applicability of article to public utilities.

All persons operating public utilities in the city under franchises granted by the city and having the right either by general or special permission to enter upon streets and open and excavate pavements, sidewalks or disturb the surface thereof by excavation or other work shall not be required to apply for a permit, but shall be required to perform the work in accordance with all terms of the applicable franchise agreement and bring it to completion as promptly as practicable and to that end shall employ an adequate standing force. Any person operating any such public utility shall, however, comply with other requirements of this article, including deposit requirements.

(Ord. No. 3.621, § 1(33.500.310), 7-28-1997)

Sec. 8.120.480. Insurance.

A permittee, prior to the commencement of excavation work under this article, shall furnish the public improvement official satisfactory evidence in writing that the permittee has in force and will maintain in force during the performance of the excavation work and the period of the excavation permit public liability insurance of not less than \$100,000.00 for any one person, \$300,000.00 for any one accident, and property damage insurance of not less than \$50,000.00 duly issued by an insurance company authorized to do business in this state.

(Ord. No. 3.621, § 1(33.500.320), 7-28-1997)

Sec. 8.120.490. Liability of city for damages incurred during work in compliance with article.

This article shall not be construed as imposing upon the city or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued under this article, nor shall the city or any official or employee thereof be deemed to

have assumed such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work.

(Ord. No. 3.621, § 1(33.500.330), 7-28-1997)

CHAPTER 125. REDEVELOPMENT

Sec. 8.125.010. Redevelopment plan; contents; adoption of plan; required findings; time limitations.

- (a) Each redevelopment plan shall set forth in writing a general description of the program to be undertaken to accomplish the objectives and shall include, but need not be limited to, estimated redevelopment project costs, the anticipated sources of funds to pay the costs, evidence of the commitments to finance the project costs, the anticipated type and term of the sources of funds to pay costs, the anticipated type and terms of the obligations to be issued, the most recent equalized assessed valuation of the property within the redevelopment area which is to be subjected to payments in lieu of taxes and economic activity taxes pursuant to section 8.125.070, an estimate as to the equalized assessed valuation after redevelopment, and the general land uses to apply in the redevelopment area. No redevelopment plan shall be adopted by the city council without findings that:
- (1) The redevelopment area on the whole is a blighted area, a conservation area, or an economic development area, and has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing. Such a finding shall include, but not be limited to, a detailed description of the factors that qualify the redevelopment area or project pursuant to this subsection and an affidavit, signed by the developer or developers and submitted with the redevelopment plan, attesting that the provisions of this subsection have been met;
 - (2) The redevelopment plan conforms to the comprehensive plan for the development of the city as a whole;
 - (3) The estimated dates, which shall not be more than 23 years from the adoption of the ordinance approving a redevelopment project within a redevelopment area, of completion of any redevelopment project and retirement of obligations incurred to finance redevelopment project costs have been stated, provided that no ordinance approving a redevelopment project shall be adopted later than ten years from the adoption of the ordinance approving the redevelopment plan under which such project is authorized and provided that no property for a redevelopment project shall be acquired by eminent domain later than five years from the adoption of the ordinance approving such redevelopment project;
 - (4) A plan has been developed for relocation assistance for businesses and residences;
 - (5) A cost-benefit analysis showing the economic impact of the plan on each taxing district, which is at least partially within the boundaries of the redevelopment area. The analysis shall show the impact on the economy if the project is not built, and is built pursuant to the redevelopment plan under consideration. The cost-benefit analysis shall include a fiscal impact study on every affected political subdivision, and sufficient information from the developer for the commission established in section 8.125.020(b) to evaluate whether the project as proposed is financially feasible;
 - (6) A finding that the plan does not include the initial development or redevelopment of any gambling establishment, provided however, that this subsection shall be applicable only to a redevelopment plan adopted for a redevelopment area designated by ordinance after December 23, 1997.

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- (b) By the last day of February each year, each commission shall report to the state director of economic development the name, address, phone number and primary line of business of any business, which relocates to the district.

(Ord. No. 3.621, § 1(33.900.010), 7-28-1997; Ord. No. 4.224, § 1, 1-14-2013)

Sec. 8.125.020. Municipalities' powers and duties; commission appointment and powers; public disclosure requirements; officials' conflict of interest prohibited.

- (a) The city may:
- (1) By ordinance introduced by the city council within 14 to 90 days from the completion of the hearing required in section 8.125.030, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of this chapter. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;
 - (2) Make and enter into all contracts necessary or incidental to the implementation and furtherance of its redevelopment plan or project;
 - (3) Pursuant to a redevelopment plan, subject to any constitutional limitations, acquire by purchase, donation, lease or, as part of a redevelopment project, eminent domain, own, convey, lease, mortgage, or dispose of land and other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the city or commission determines is reasonably necessary to achieve the objectives of the redevelopment plan. No conveyance, lease, mortgage, disposition of land or other property, acquired by the city, or agreement relating to the development of the property shall be made except upon the adoption of an ordinance by the city council. Furthermore, no conveyance, lease, mortgage, or other disposition of land or agreement relating to the development 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 city's request. The city council shall by resolution adopt procedures for obtaining such bids and proposals which procedures shall provide reasonable opportunity for any person to submit alternative proposals or bids;
 - (4) Within a redevelopment area, clear any area by demolition or removal of existing buildings and structures;
 - (5) Within a redevelopment area, renovate, rehabilitate, or construct any structure or building;
 - (6) Install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area for use in accordance with a redevelopment plan;
 - (7) Within a redevelopment area, fix, charge, and collect fees, rents, and other charges for the use of any building or property owned or leased by it or any part thereof, or facility therein;
 - (8) Accept grants, guarantees, and donations of property, labor, or other things of value from a public or private source for use within a redevelopment area;
 - (9) Acquire and construct public facilities within a redevelopment area;
 - (10) Incur redevelopment costs and issue obligations;
 - (11) Make payment in lieu of taxes, or a portion thereof, to taxing districts.

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- (12) Disburse surplus funds from the special allocation fund to taxing districts as follows:
- a. Such surplus payments in lieu of taxes shall be distributed to taxing districts within the redevelopment area, which impose ad valorem taxes on a basis that is proportional to the current collections of revenue which each taxing district receives from real property in the redevelopment area;
 - b. Surplus economic activity taxes shall be distributed to taxing districts in the redevelopment area which impose economic activity taxes, on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted;
 - c. Surplus revenues, other than payments in lieu of taxes and economic activity taxes, deposited in the special allocation fund, shall be distributed on a basis that is proportional to the total receipt of such other revenues in such account in the year prior to disbursement;
- (13) If any member of the city council, a member of a commission established pursuant to subsection (b) of this section, or an employee or consultant of the city, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the city clerk, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the city council and entered upon the minutes books of the city council. If an individual holds such an interest then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project, or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 8.125.040, whichever first occurs.
- (b) Prior to adoption of an ordinance approving the designation of a redevelopment area or approving a redevelopment plan or redevelopment project, the city shall create the tax increment financing (TIF) commission of 11 persons to be appointed as follows:
- (1) Two members shall be appointed by the school boards the districts of which are included within the redevelopment plan or redevelopment area. Such members shall be appointed in any manner agreed upon by the affected districts.
 - (2) One member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for a redevelopment project or the redevelopment area, excluding representatives of the city council.
 - (3) Six members shall be appointed by the mayor with the approval of the city council.
 - (4) Two members shall be appointed by the chief elected officer of the governing body of Clay County, with the consent of a majority of such governing body.
 - (5) At the option of the members appointed by the city, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subsection. If the members representing school districts and other taxing districts are appointed for a term coinciding

with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the city council. Thereafter the commission shall consist of the six members appointed by the city, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within 30 days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the city, two shall be designated to serve for terms 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 such initial appointments. Thereafter, the members appointed by the city shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

- (c) The commission, subject to approval of the city council, may exercise the powers enumerated in this chapter except final approval of plans, projects and designation of redevelopment areas. The commission shall hold public hearings and provide notice pursuant to sections 8.125.030 and 8.125.040. The commission shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas, and amendments thereto, within 30 days following completion of the hearing on any such plan, project or designation and shall make recommendations to the city council within 90 days of the hearing referred to in section 8.125.030 concerning the adoption of, or amendment to, redevelopment plans and redevelopment projects and the designation of redevelopment areas.

(Ord. No. 3.621, § 1(33.900.020), 7-28-1997; Ord. No. 3.965, § 2, 9-12-2005; Ord. No. 4.046, § 9, 9-24-2007; Ord. No. 4.224, § 1, 1-14-2013)

Sec. 8.125.030. Adoption of ordinance for redevelopment, public hearing required; objection procedure; when hearing and notices not required; restrictions on certain projects.

- (a) Prior to the adoption of an ordinance proposing the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission 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. At the public hearing, any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission shall hear and consider all protests, objections, comments and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing. Prior to the conclusion of the hearing, changes may be made in the redevelopment plan, redevelopment project, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or substantially change the nature of the redevelopment projects, provided that notice of such changes shall be given by mail to each affected taxing district and by publication in a newspaper of general circulation in the area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the

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procedures provided in this section pertaining to the initial approval of a redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

- (b) Effective January 1, 2008, if, after concluding the hearing required under this section, the commission makes a recommendation under section 8.125.020 in opposition to a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, or any amendments thereto, the city shall do so only upon a two-thirds majority vote of the city council.
- (c) Tax increment financing (TIF) projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements, but in no case shall it include buildings.

(Ord. No. 3.621, § 1(33.900.030), 7-28-1997; Ord. No. 4.224, § 1, 1-14-2013)

Sec. 8.125.040. Notice of public hearings, publication and mailing requirements contents.

- (a) Notice of the public hearing required by section 8.125.030 shall be given by publication and mailing. Notice by publication shall be given by publication at least twice, the first publication to be not more than 30 days and the second publication to be not more than ten days prior to the hearing, in a newspaper of general circulation in the area of the proposed redevelopment. Notice by mailing shall be given by depositing such notice in the United States mail by certified mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the redevelopment project or redevelopment area which is to be subjected to the payment or payments in lieu of taxes and economic activity taxes pursuant to section 8.125.070. Such notice shall be mailed not less than ten days prior to the date set for the public hearing. In the event taxes for the last preceding year were not paid, the notice shall also be sent to the persons last listed on the tax rolls within the preceding three years as the owners of such property.
- (b) The notices issued pursuant to this section shall include the following:
 - (1) The time and place of the public hearing;
 - (2) The general boundaries of the proposed redevelopment area or redevelopment project by street location, where possible;
 - (3) A statement that all interested persons shall be given an opportunity to be heard at the public hearing;
 - (4) A description of the proposed redevelopment plan or redevelopment project and a location and time where the entire plan or project proposal may be reviewed by any interested party;
 - (5) Such other matters as the commission may deem appropriate.
- (c) Not less than 45 days prior to the date set for the public hearing, the commission shall give notice by mail as provided in subsection (a) of this section to all taxing districts from which taxable property is included in the redevelopment area, redevelopment project or redevelopment plan, and in addition to the other requirements under subsection (b) of this section, the notice shall include an invitation to each taxing district to submit comments to the commission concerning the subject matter of the hearing prior to the date of the hearing.
- (d) A copy of any and all hearing notices required by section 8.125.030 shall be submitted by the commission to the director of the department of economic development. Such submission of the copy of the hearing notice shall comply with the prior notice requirements pursuant to subsection (c) of this section.

(Ord. No. 3.621, § 1(33.900.040), 7-28-1997; Ord. No. 4.224, § 1, 1-14-2013)

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Sec. 8.125.050. Secured obligations authorized; interest rates; how obligation retired; approval of sale by electors not required; surplus fund distribution; county collectors' and municipal treasurers' duties; no personal liability for commission, city or state.

- (a) Obligations secured by the special allocation fund set forth in sections 8.125.070 and 8.125.080 for the redevelopment area or redevelopment project may be issued by the city pursuant to section 8.125.020 or by the tax increment financing (TIF) commission to provide for redevelopment costs. Such obligations, when so issued, shall be retired in the manner provided in the ordinance or resolution authorizing the issuance of such obligations by the receipts of payments in lieu of taxes as specified in section 8.125.090 and, subject to annual appropriation, other tax revenue as specified in section 8.125.070. The city may, in the ordinance or resolution, pledge all or any part of the funds in and to be deposited in the special allocation fund created pursuant to sections 8.125.070 and 8.125.080 to the payment of the redevelopment costs and obligations. Any pledge of funds in the special allocation fund may provide for distribution to the taxing districts of moneys not required for payment of redevelopment costs or obligations and such excess funds shall be deemed to be surplus funds. In the event the city only pledges a portion of the funds in the special allocation fund for the payment of redevelopment costs or obligations, any such funds remaining in the special allocation fund after complying with the requirements of the pledge, including the retention of funds for the payment of future redevelopment costs, if so required, shall also be deemed surplus funds. All surplus funds shall be distributed annually to the taxing districts in the redevelopment area by being paid by the city treasurer to the county collector who shall immediately thereafter make distribution as provided in subsection 8.125.020(a)(12).
- (b) Without limiting the provisions of subsection (a) of this section, the city may, in addition to obligations secured by the special allocation fund, pledge any part or any combination of net new revenues of any redevelopment project, or a mortgage on part or all of the redevelopment project to secure its obligations or other redevelopment costs.
- (c) Obligations issued under this chapter may be issued in one or more series bearing interest at such rate or rates as the issuing body of the city shall determine by ordinance or resolution. Such obligations shall bear such date or dates, mature at such time or times not exceeding 23 years from their respective dates, when secured by the special allocation fund, be in such denomination, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, contain such covenants, terms and conditions, and be subject to redemption as such ordinance or resolution shall provide. Obligations issued pursuant to this chapter may be sold at public or private sale at such price as shall be determined by the issuing body and shall state that obligations issued pursuant to this chapter are special obligations payable solely from the special allocation fund or other funds specifically pledged. No referendum approval of the electors shall be required as a condition to the issuance of obligations pursuant to this chapter.
- (d) The ordinance authorizing the issuance of obligations may provide that the obligations shall contain a recital that they are issued pursuant to RSMo 99.800—99.865, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.
- (e) Neither the city, its city council, its duly authorized commission, the commissioners or the officers of the city nor any person executing any obligation shall be personally liable for such obligation by reason of the issuance thereof. The obligations issued pursuant to this chapter shall not be a general obligation of the city, county, state, or any political subdivision thereof, nor in any event shall such obligation be payable out of any funds or properties other than those specifically pledged as security therefor. The obligations shall not constitute indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction.

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(Ord. No. 3.621, § 1(33.900.050), 7-28-1997; Ord. No. 4.224, § 1, 1-14-2013)

Sec. 8.125.060. Obligation, refunded to pay redevelopment costs, requirements; other obligations of city pledged to redevelopment may qualify.

- (a) The city may also issue its obligation to refund, in whole or in part, obligations theretofore issued by such city under the authority of this chapter and RSMo 99.800—99.865, whether at or prior to maturity; provided, however, that the last maturity of the refunding obligations shall not be expressed to mature later than the last maturity date of the obligations to be refunded.
- (b) In the event the city issues obligations under home rule powers or other legislative authority, the proceeds of which are pledged to pay for redevelopment project costs, the city may, if it has followed the procedures in conformance with this chapter, retire such obligations from funds in the special allocation fund in amounts and in such manner as if such obligations had been issued pursuant to the provisions of this chapter and RSMo 99.800—99.865.

(Ord. No. 3.621, § 1(33.900.060), 7-28-1997; Ord. No. 4.224, § 1, 1-14-2013)

Sec. 8.125.070. Tax increment financing adoption; division of ad valorem taxes; payments in lieu of tax, deposit; when certain evaluation not to be used in calculating state school aid formula; other taxes included, amount.

- (a) The city, at the time a redevelopment project is approved may adopt tax increment allocation financing by passing an ordinance providing that after the total equalized assessed valuation of the taxable real property in a redevelopment project exceeds the certified total initial equalized assessed valuation of the taxable real property in the redevelopment project, the ad valorem taxes, and payments in lieu of taxes, if any, arising from the levies upon taxable real property in such redevelopment project by taxing districts and tax rates determined in the manner provided in subsection 8.125.090(b) each year after the effective date of the ordinance until redevelopment costs have been paid shall be divided as follows:
 - (1) That portion of taxes, penalties and interest levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the initial equalized assessed value of each such taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid by the county collector to the respective affected taxing districts in the manner required by law in the absence of the adoption of tax increment allocation financing;
 - (2) a. Payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project and any applicable penalty and interest over and above the initial equalized assessed value of each such unit of property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid to the city treasurer who shall deposit such payment in lieu of taxes into a special fund called the "special allocation fund" of the city for the purpose of paying redevelopment costs and obligations incurred in the payment thereof. Payments in lieu of taxes which are due and owing shall constitute a lien against the real estate of the redevelopment project from which they are derived and shall be collected in the same manner as the real property tax, including the assessment of penalties and interest where applicable. The city may, in the ordinance, pledge the funds in the special allocation fund for the payment of such costs and obligations and provide for the collection of payments in lieu of taxes, the lien of which may be foreclosed in the same manner as a special assessment lien as provided in RSMo 88.861. No part of the current equalized assessed valuation of each lot, block, tract, or parcel of property in the area selected for the redevelopment project

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attributable to any increase above the total initial equalized assessed value of such properties shall be used in calculating the general state school aid formula provided for in RSMo 163.031 until such time as all redevelopment costs have been paid as provided for in this section and section 8.125.080;

- b. Notwithstanding any provisions of this section to the contrary, for purposes of determining the limitation on indebtedness of local government pursuant to Article VI, Section 26(b) of the Missouri Constitution, the current equalized assessed value of the property in an area selected for redevelopment attributable to the increase above the total initial equalized assessed valuation shall be included in the value of taxable tangible property as shown on the last completed assessment for state or county purposes;
 - c. The county assessor shall include the current assessed value of all property within the taxing district in the aggregate valuation of assessed property entered upon the assessor's book and verified pursuant to section 137.245, and such value shall be utilized for the purpose of the debt limitation on local government pursuant to Article VI, Section 26(b) of the Missouri Constitution.
- (b) In addition to the payments in lieu of taxes described in subsection (a)(2) of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after July 12, 1990, and prior to August 31, 1991, 50 percent of the total additional revenue from taxes, penalties and interest imposed by the city, or other taxing districts, which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments and personal property taxes, other than payments in lieu of taxes, shall be allocated to, and paid by the collecting officer to the city treasurer, who shall deposit such funds in a separate segregated account within the special allocation fund.

(Ord. No. 3.621, § 1(33.900.070), 7-28-1997; Ord. No. 4.224, § 1, 1-14-2013)

Sec. 8.125.080. Costs of project aid; surplus fund in special allocation fund; distribution; dissolution of fund and redevelopment area.

- (a) When such redevelopment project costs, including, but not limited to, all municipal obligations financing redevelopment project costs incurred under this chapter have been paid, all surplus funds then remaining in the special allocation fund shall be paid by the city treasurer to the county collector who shall immediately thereafter pay such funds to the taxing districts in the area selected for a redevelopment project in the same manner and proportion as the most recent distribution by the county collector to the affected districts of real property taxes from real property in the area selected for a redevelopment project.
- (b) Upon the payment of all redevelopment project costs, retirement of obligations and the distribution of any excess moneys pursuant to section 8.125.070 and this section, the city shall adopt an ordinance dissolving the special allocation fund for the redevelopment area and terminating the designation of the redevelopment area as a redevelopment area. Thereafter, the rates of the taxing districts shall be extended and taxes levied, collected, and distributed in the manner applicable in the absence of the adoption of tax increment financing.
- (c) Nothing contained in this chapter shall be construed as relieving property in such areas from paying a uniform rate of taxes as required by Article X, Section 3 of the Missouri Constitution (Mo. Const. art. X, § 3).

(Ord. No. 3.621, § 1(33.900.080), 7-28-1997; Ord. No. 4.224, § 1, 1-14-2013)

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Sec. 8.125.090. Tax rates for districts containing redevelopment projects, method for establishing; county assessor's duties; when method of extending taxes to terminate.

- (a) If the city by ordinance provides for tax increment allocation financing pursuant to section 8.125.070 and 8.125.080, the county assessor shall immediately thereafter determine total equalized assessed value of all taxable real property within such redevelopment project by adding together the most recently ascertained equalized assessed value of each taxable lot, block, tract, or parcel of real property within such project, and shall certify such amount as the total initial equalized assessed value of the taxable real property within such project.
- (b) After the county assessor has certified the total initial equalized assessed value of the taxable real property in such redevelopment project, then, in respect to every taxing district containing a redevelopment project, the county clerk, or any other official required by law to ascertain the amount of the equalized assessed value of all taxable property within such district for the purpose of computing any debt service levies to be extended upon taxable property within such district, shall in every year that tax increment allocation financing is in effect ascertain the amount of value of taxable property in a redevelopment project by including in such amount the certified total initial equalized assessed value of all taxable real property in such area in lieu of the equalized assessed value of all taxable real property in such area. For the purpose of measuring the size of payments in lieu of taxes under this chapter, all tax levies shall then be extended to the current equalized assessed value of all property in the redevelopment project in the same manner as the tax rate percentage is extended to all other taxable property in the taxing district. The method of extending taxes established under this section shall terminate when the city adopts an ordinance dissolving the special allocation fund for the redevelopment project.

(Ord. No. 3.621, § 1(33.900.090), 7-28-1997; Ord. No. 4.224, § 1, 1-14-2013)

Sec. 8.125.100. Report by municipalities; contents; publication; satisfactory progress of project, procedure to determine.

- (a) Each year the city manager, or the city manager's designee, shall prepare a report concerning the status of each redevelopment plan and redevelopment project, and shall submit a copy of such report to the director of the state department of economic development. The report shall include the following: The amount and source of revenue in the special allocation fund, the amount and purpose of expenditures from the special allocation fund, the amount of any pledge of revenues, including principal and interest on any outstanding bonded indebtedness, the original assessed value of the redevelopment project, the assessed valuation added to the redevelopment project, payment made in lieu of taxes received and expended, the economic activity taxes generated within the redevelopment area in the calendar year prior to the approval of the redevelopment plan, to include a separate entry for the state sales tax revenue base for the redevelopment area or the state income tax withheld by employers on behalf of existing employees in the redevelopment area prior to the redevelopment plan, the economic activity taxes generated within the redevelopment area after the approval of the redevelopment plan, to include a separate entry for the increase in state sales tax revenues for the redevelopment area or the increase in state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area, reports on contracts made incident to the implementation and furtherance of a redevelopment plan or project, a copy of any redevelopment plan, which shall include the required findings and cost-benefit analysis pursuant to subsection (1) to (6) of RSMo 99.810, the cost of any property acquired, disposed of, rehabilitated, reconstructed, repaired or remodeled, the number of parcels acquired by or through initiation of eminent domain proceedings and any additional information the city deems necessary.

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- (b) Data contained in the report mandated under the provisions of subsection (a) and any information regarding amounts disbursed to the city pursuant to the provisions of section 8.125.070 shall be deemed a public record, as defined in RSMo 610.010. An annual statement showing the payments made in lieu of taxes received and expended in that year, the status of the redevelopment plan and projects therein, amount of outstanding bonded indebtedness and any additional information the city deems necessary shall be published in a newspaper of general circulation in the city.
- (c) Five years after the establishment of a redevelopment plan and every five years thereafter the city council shall hold a public hearing regarding those redevelopment plans and projects created pursuant to this chapter. The purpose of the hearing shall be to determine if the redevelopment project is making satisfactory progress under the proposed time schedule contained within the approved plans for completion of such projects. Notice of such public hearing shall be given in a newspaper of general circulation in the area served by the commission once each week for four weeks immediately prior to the hearing.

(Ord. No. 3.621, § 1(33.900.100), 7-28-1997; Ord. No. 4.224, § 1, 1-14-2013)

Title IX BUILDING AND CONSTRUCTION ORDINANCE (BACO)⁶³

⁶³Cross reference(s)—Uniform codes board of appeals, § 1.110.210Cross reference(s)— et seq.; public health, safety and welfare, tit. II; solid waste and litter, § 2.115.010Cross reference(s)— et seq.; utilities, § 6.110.010Cross reference(s)— et seq.; zoning and planning, title VII; land and development, title VIII; street excavations, § 8.120.170Cross reference(s)— et seq.

State law reference(s)—Authority to regulate construction, RSMo 77.500.

CHAPTER 100. GENERAL PROVISIONS

Sec. 9.100.010. Title.

This title shall be known and cited as the "Building and Construction Ordinance" (BACO) of the city.
(Ord. No. 3.947, § 2(34.100.010), 2-14-2005)

Sec. 9.100.020. Intent.

The purpose of this title is:

- (1) To provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality or materials, use and occupancy, location and maintenance of all buildings and structures within this jurisdiction.
- (2) To provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by this title or otherwise available by law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety to welfare of the general public or their occupants may be required to be repaired, vacated or demolished.
- (3) To provide guidance in future construction and reconstruction based upon elements contained in the city's comprehensive plan.
- (4) 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 title.

(Ord. No. 3.947, § 2(34.100.020), 2-14-2005)

Sec. 9.100.030. Authority.

- (a) *State.* RSMo 77.500 provides the authority for cities of the third class to regulate the construction of buildings and structures.
- (b) *City.* The building official is hereby authorized and directed to enforce all the provisions of this title.

(Ord. No. 3.947, § 2(34.100.030), 2-14-2005)

Sec. 9.100.040. Board of appeals.

- (a) *Generally.* In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this title, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the city council and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.
- (b) *Limitations on authority.* An application for appeal shall be based on claim that the true intent of this title or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this title do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this title.

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- (c) *Qualifications.* The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

(Ord. No. 3.947, § 2(34.100.040), 2-14-2005)

Cross reference(s)—Boards, commissions and committees, § 1.110.010Cross reference(s)— et seq.; uniform codes board of appeals, § 1.110.210Cross reference(s)—.

Sec. 9.100.050. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish, or occupy any building, structure or equipment regulated by this title, or cause same to be done, in conflict with or in violation of any provisions of this title, the land and development ordinance (LADO) (title VIII), the zoning and planning ordinance (ZAPO) (title VII) and any other applicable federal, state or local laws, regulations, ordinances or policies.
- (b) *Violation; penalties.* Any person who violates a provision of this title or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable for a municipal ordinance violation as provided in section 1.100.140(e)(2) of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 3.947, § 2(34.100.050), 2-14-2005; Ord. No. 4.364 , § 4, 8-22-2016)

Sec. 9.100.060. Severability.

Should any provision of this title for any reason be declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder of this title.

(Ord. No. 3.947, § 2(34.100.060), 2-14-2005)

CHAPTER 200. BUILDING REGULATIONS

Sec. 9.200.010. Miscellaneous building regulations.

- (a) *Tower structures.* Unless otherwise provided by law or variance, the following additional requirements shall apply to the construction, alteration, or maintenance of towers:
- (1) *Definition.* For purposes of this section, the term "tower" shall mean a permanent structure, having a total height in excess of 50 feet measured from the ground and having one or more legs designed for the support of one or more sign, antenna, light, wind, turbine, solar array, or other object but excluding buildings serving other purposes and meeting the building requirements for all purposes. A tower shall not include existing electrical utility poles installed by a provider holding a certificate of convenience from the Missouri Public Service Commission and installed consistent with industry practice and in conformance with all otherwise applicable federal, state, and local requirements.

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- (2) *Safety fall zone required.* All portions of any tower including related structures, fences, and walls (except for parking associated with the wireless facility) shall be separated from any public rights-of-way, sidewalk or street, alley, parking areas, playground, or other building, and from the property line of any adjacent property at least a distance equal to the height of the tower. Towers shall be reasonably designed to reduce the potential damage to person or property from falling ice or equipment from the tower or from wind damage or structural failure.
 - (3) *Safety fencing.* In addition to other applicable requirements, the tower and any appurtenances shall be safely maintained and fenced or otherwise secured to prevent unauthorized access or climbing of the tower. Barbed, electrified, or razor wire is prohibited in commercial districts. Tower legs shall be of a monopole design without use of lattice or guy wire support and be engineered and designed with sufficient depth, counter-weight, and other mechanisms to address wind-loading and other failure risks under all reasonably anticipated conditions and circumstances.
 - (4) *Abandonment bond; nuisance.* Any tower not operated for a period of six months or more, shall be deemed abandoned and the building official or designee shall cause notice of such determination to be sent and request for removal within a reasonable time not to exceed 90 days. If a tower is abandoned, it shall be removed at the owner's expense. Failure to comply with this provision shall constitute a public nuisance and building code violation that may be remedied by the city at the tower or property owner's expense. Any applicant for a new tower shall place a bond or other security with the city prior to any final approval to ensure abandoned towers can be removed. The bond or security shall be in the form approved by the building official. The amount of the bond shall be \$15,000.00, or such other amount as determined by the building official to satisfy the requirements hereof with regard to the specific tower to which it would apply based on the estimated total cost of removal of that tower.
 - (5) *Structural analysis.* Before any modifications or alterations to an existing tower may be approved, a sealed structural analysis from a qualified structural engineer, verifying that the tower with such modifications or alterations meets or exceeds all applicable structural requirements, must be submitted to the city.
 - (6) *Maintenance.* All towers and appurtenances shall be adequately maintained and in compliance with all applicable building codes and standards. If upon inspection, it is determined that any tower fails to comply with applicable codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to remedy any defects and bring the tower into compliance with applicable codes and standards. Failure by the owner to bring a deficient tower into compliance with applicable codes and standards shall be cause for removal of the deficient tower by the city with all cost of removal being the owner's responsibility (and the city shall be authorized to use the abandonment bond, if any, that may have been required pursuant to the city code or other authority). The bond or security may also be used to compensate the city for performing proper maintenance of such towers to ensure such structures do not become unsafe.
 - (7) *Lighting.* Towers may be lighted at the base of the structure for security purposes but only when approved by the city, after submission of a description of the proposed lighting scheme as part of the application to install, build, alter, or modify the tower and a finding by the city that such lighting shall not unreasonably shine on adjacent properties or rights-of-way or otherwise pose a safety concern.
 - (8) *Paved access.* To ensure access to the property to address any safety concerns on which the tower is located, paved access to the tower and related facilities must be provided and maintained at all times that such tower and/or related facilities are located on the property.
 - (9) *Stormwater control.* Any new tower or modification thereto shall be required to be reviewed for storm water control and shall comply with any storm water control requirements. All towers constructed

within a designated floodplain or floodway shall comply with all state, local, and federal requirements and obtain all necessary permits.

- (10) *Incorporated.* All requirements in section 7.166.010—7.166.090 of the Code as to towers defined therein shall apply to the construction, modification, and maintenance of each tower under this Code where applicable and are reincorporated herein as building code requirements to the extent permitted by law.

(Ord. No. 4.436 , § 2, 6-14-2018)

CHAPTER 300. CROSS CONNECTION CONTROL

Sec. 9.300.010. General provisions.

- (a) *Scope.* The provisions of this chapter are to protect the public water supply from introduction of contaminants or pollutants, by containing within the consumer's internal distribution system contaminants which could backflow into the public water supply system.
- (b) *Intent.* The purpose of this chapter is to provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of the public water system.

(Ord. No. 3.947, § 2(34.300.010), 2-14-2005)

Sec. 9.300.020. Applicability.

- (a) This chapter shall apply to all buildings or premises served by the public water system of the city.
- (b) Exceptions:
- (1) This chapter does not apply to buildings or premises used solely for residential purposes unless a cross connection is specifically identified or this chapter indicates otherwise.
 - (2) The state department of natural resources (DNR) may issue an exemption from the requirements of this chapter if the customer can demonstrate to DNR and the city that the activities taking place at the customer's facility and the materials used in connection with these activities or stored on the premises cannot endanger the health of customers or degrade the water quality of the public 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 subsection (2) shall report to the city any proposed changes in process, plumbing or materials used or stored at the exempted facility at least 14 days prior to making the change. Any exemption granted under this subsection (2) shall be void if DNR or the city determines that the customer facility has become an actual or potential backflow hazard, or if the customer fails to provide notice at least 14 days prior to making changes in process, plumbing or materials used or stored at the facility.

(Ord. No. 3.947, § 2(34.300.020), 2-14-2005)

Sec. 9.300.030. Policy.

This chapter shall apply to all matters affecting or relating to backflow. Where, in any specific case, different sections of this chapter specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where this chapter conflicts with adopted codes of the city, this chapter and its sections

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shall govern. This chapter will be reasonably interpreted by the city manager. It is the city manager's intent to recognize the varying degrees of hazards and to apply the principle that the degree of protection shall be commensurate with the degree of hazard. The city manager shall be primarily responsible for the containment of contaminants or pollutants that may backflow into the public water distribution system. The cooperation of the consumers is required to implement and maintain the program to control cross connections. The city manager and consumers are jointly responsible for preventing contamination of the public water system. If, in the judgment of the city manager, cross connection protection is required through either piping modification or installation of an approved backflow assembly, due notice shall be given to the consumer. The consumer shall, within 60 days of written notice by the city, comply by providing the required protection at the consumer's own expense; failure, refusal, or inability on the part of the consumer to provide such protection shall constitute grounds for discontinuing water service to the building and/or premises until such protection has been provided.

(Ord. No. 3.947, § 2(34.300.030), 2-14-2005)

Sec. 9.300.040. 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. Where terms are not defined in this chapter and are defined in the plumbing code, such terms shall have the meanings ascribed to them as in that code. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Air gap (water distribution system) 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 flood-level rim of the receptacle.

Antisiphon is a term applied to valves or mechanical devices that eliminate siphonage.

Auxiliary intake means any piping, connection, or device whereby water may be secured from a source other than the primary source.

Auxiliary water supply means any water source or system, other than the public water supply, that may be available in the building or premises.

Backflow means the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the public water system from any source.

- (1) *Backpressure* means pressure created by any means in the water distribution system, which by being in excess of the pressure in the water supply mains causes a potential backflow condition.
- (2) *Backsiphonage, low head*, means a pressure less than or equal to 4.33 psi (29.88 kPa) or the pressure exerted by a ten-foot (3,048 mm) column of water.
- (3) *Backsiphonage* means the backflow of potentially contaminated water into the potable water system as a result of the pressure in the potable water system falling below atmospheric pressure of the plumbing fixtures, pools, tanks or vats connected to the potable water distribution piping.
- (4) *Water supply system* means the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply from any source except the intended source.

Backflow connection means any arrangement whereby backflow is possible.

Backflow hazard means any facility which, because of the nature and extent of activities on the premises or the materials used in connection with the activities or stored on the premises, would present an immediate or potential health hazard to customers of the public water system or would threaten to degrade the water quality of the public water system, should backflow occur.

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- (1) *Class I backflow hazard* means a backflow hazard which presents an immediate or potential health hazard to customers of the public water system should backflow occur.
 - (2) *Class II backflow hazard* means a backflow hazard which would threaten to degrade the water quality of the public water system should backflow occur.

Backflow preventer means a device or means to prevent backflow.

Backflow prevention assembly means an assembly that has been investigated and approved by the state department of natural resources (DNR).

- (1) *Air gap separation* means a physical separation between the free-flowing discharge end of a public water system pipeline and an open or non-pressurized receiving vessel. An approved air gap separation shall be at least twice the diameter of the system pipe measured vertically above the overflow rim of the vessel; in no case shall the distance be less than one inch (25 mm).
- (2) *Double checkvalve assembly* means an assembly composed of two single, independently acting, internally loaded, approved checkvalves including tightly closing shutoff valves located at each end of the assembly and fitted with properly located test cocks.
- (3) *Reduced pressure principle backflow prevention assembly* means a device containing two independently acting, internally loaded, approved checkvalves together with a hydraulically operating, mechanically independent pressure relief valve located between the checkvalves and at the same time below the first checkvalve. The unit shall include properly located test cocks and tightly closing shutoff valves at each end of the assembly.

Backflow prevention assembly tester, certified, means any person who has satisfactorily completed a written and performance (hands on) examination (including questions specific to Missouri backflow prevention rules) provided by the American Backflow Prevention Association (ABPA) Tester Certification Program or the American Society of Sanitary Engineering (ASSE), and ensures that ABPA or ASSE notifies the state department of natural resources (DNR) that the tester has passed the examination.

Bathroom means a room containing plumbing fixtures including a bathtub or shower.

Boiler room means any room containing a steam or hot-water boiler.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building official means the official who is charged with the administration and enforcement of this chapter, or any duly authorized representative.

Cistern means a small covered tank for storing water for a home or farm. Generally, this tank stores rainwater to be utilized for purposes other than in the potable water supply, and such tank is placed underground in most cases.

City manager means the city manager or the city manager's authorized representative.

Consumer means the owner or person in control of any premises supplied by or in any manner connected to the public water system of the city.

Containment means the protection of the public water supply by the installation of a backflow assembly or air gap on the main service line to a facility.

Contamination means an impairment of the quality of the potable water which creates an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids or waste.

Critical level (C-L) means an elevation (height) reference point that determines the minimum height at which a backflow preventer or vacuum breaker is installed above the flood-level rim of the fixture or receptor served by

the device. The critical level is the elevation level below which there is a potential for backflow to occur. If the critical level marking is not indicated on the device, the bottom of the device shall constitute the critical level.

Cross connection means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas or chemicals, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems. (See "Backflow.")

Customer means any person who receives water from a public water system.

Customer's authorized representative means a person in control of any premises supplied by or in any manner connected to the public water system of the city.

Customer water system means all piping, fixtures and appurtenances, including auxiliary water systems, used by a customer to convey water on the customer's premises.

Effective opening means the minimum cross sectional area at the point of water supply discharge, measured or expressed in terms of the diameter of a circle or, if the opening is not circular, the diameter of a circle of equivalent cross-sectional area. For faucets and similar fittings, the effective opening shall be measured at the smallest orifice in the fitting body or in the supply piping to the fitting.

Essentially nontoxic transfer fluids means fluids having a Gosselin rating of 1, including: propylene glycol; mineral oil; polydimethylsiloxane; hydrochlorofluorocarbon, chlorofluorocarbon and hydrofluorocarbon refrigerants; and FDA-approved boiler water additives for steam boilers.

Essentially toxic transfer fluids means soil, waste or gray water and fluids having a Gosselin rating of 2 or more, including ethylene glycol, hydrocarbon oils, ammonia refrigerants and hydrazine.

Facility means something that is built, constructed, installed, or established to perform some particular function.

Faucet means a valve end of a water pipe by means of which water is drawn from or held within the pipe.

Fixture. See "Plumbing fixture."

Fixture fitting.

Supply fitting means a fitting that controls the volume and/or direction flow of water and is either attached to or accessible from a fixture, or is used with an open or atmospheric discharge.

Fixture supply means the water supply pipe connecting a fixture to a branch water supply pipe or directly to a main water supply pipe.

Flood-level rim means the edge of the receptacle from which water overflows.

Flow pressure means the pressure in the water supply pipe near the faucet or water outlet while the faucet or water outlet is wide open and flowing.

Flushometer valve means a valve attached to a pressurized water supply pipe and so designed that when activated it opens the line for direct flow into the fixture at a rate and quantity to operate the fixture properly, and then gradually closes to reseal fixture traps and avoid water hammer.

Free water surface means a water surface that is at atmospheric pressure.

Frostproof closet means a hopper with no water in the bowl and with the trap and water supply control valve located below frost line.

Hot water means water at a temperature greater than or equal to 110 degrees Fahrenheit (43 degrees Celsius).

Hot-water-heating boiler means a boiler having a volume exceeding 120 gallons (454.2 L), or a heat input exceeding 200,000 Btu/h (149,540 kW), or an operating temperature exceeding 210 degrees Fahrenheit (99 degrees Celsius) that provides hot water to be used externally to itself.

Individual water supply means a water supply except an approved public water supply that serves one or more families.

Isolation means the protection of a facility service line by installing a backflow assembly, device or air gap on an individual fixture, appurtenance or system.

Low-pressure hot-water-heating boiler means a boiler furnishing hot water at pressures not exceeding 160 psi (1,102.4 kPa) and at temperatures not exceeding 250 degrees Fahrenheit (121 degrees Celsius).

Low-pressure steam-heating boiler means a boiler furnishing steam at pressures not exceeding 15 psi (103.4 kPa).

Nonpotable water means water not safe for drinking, personal or culinary utilization.

Occupancy means the purpose for which a building or portion thereof is utilized or occupied.

Occupant means any individual living or sleeping in a building, or having possession of a space within a building.

Operator means any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

Owner means any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Person means an individual, corporation, partnership or any other group acting as a unit.

Plumbing means the practice, materials and fixtures utilized in the installation, maintenance, extension and alteration of all piping, fixtures, plumbing appliances and plumbing appurtenances, within or adjacent to any structure, in connection with sanitary drainage or storm drainage facilities; venting systems; and public or private water systems.

Plumbing appliance means any one of a special class of plumbing fixtures intended to perform a special function. Included are fixtures having the operation or control dependent on one or more energized components, such as motors, controls, heating elements, or pressure- or temperature-sensing elements. Such fixtures are manually adjusted or controlled by the owner or operator, or are operated automatically through one or more of the following actions: a time cycle, a temperature range, a pressure range, a measured volume or weight.

Plumbing appurtenance means a manufactured device, a prefabricated assembly or an on-the-job assembly of component parts that is an adjunct to the basic piping system and plumbing fixtures. An appurtenance demands no additional water supply and does not add any discharge load to a fixture or to the drainage system.

Plumbing code means the International Plumbing Code promulgated by the International Code Council, as adopted by this jurisdiction.

Plumbing fixture means a receptacle or device that is either permanently or temporarily connected to the water distribution system of the premises and demands a supply of water therefrom; discharges wastewater, liquid-borne waste materials or sewage either directly or indirectly to the drainage system of the premises; or requires both a water supply connection and a discharge to the drainage system of the premises.

Plumbing system means includes the water supply and distribution pipes; plumbing fixtures and traps; water-treating or water-using equipment; soil waste and vent pipes; and sanitary and storm sewers and building drains, in addition to their respective connections, devices and appurtenances within a structure or premises.

Pollution (pollutant) means an impairment of the quality of the potable water to a degree which does not create a hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such potable waters from domestic use.

Potable water means water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming in bacteriological and chemical quality to the requirements of the Public Health Service Drinking Standards or the regulations of the public health authority having jurisdiction.

Private. In the classification of plumbing fixtures, the term "private" applies to fixtures in residences and apartments, and to fixtures in nonpublic toilet rooms of hotels and motels and similar installations in buildings where the plumbing fixtures are intended for utilization by a family or an individual.

Public or public utilization. In the classification of plumbing fixtures, the term "public" applies to fixtures in general toilet rooms of schools, gymnasiums, hotels, airports, bus and railroad stations, public buildings, bars, public comfort stations, office buildings, stadiums, stores, restaurants, and other installations where a number of fixtures are installed so that their utilization is similarly unrestricted.

Public water main. See "Water main."

Premises means a lot, plot or parcel of land, including any structures thereon.

Property. See "Premises."

Quick-closing valve means a valve or faucet which closes automatically when released manually, or which is controlled by a mechanical means for fast-action closing.

Reduced pressure principle backflow preventer means a backflow prevention assembly consisting of two independently acting checkvalves, internally force-loaded to a normally closed position and separated by an intermediate chamber (or zone) in which there is an automatic relief means of venting to atmosphere, internally loaded to a normally open position between two tightly closing shutoff valves and with means for testing for tightness of the checks and opening of relief means.

Relief valve.

- (1) *Pressure relief valve* means a pressure-actuated valve held closed by a spring or other means and designed to relieve pressure automatically at the pressure at which such valve is set.
- (2) *Temperature and pressure relief (T&P) valve* means a combination relief valve designed to function as both a temperature relief and pressure relief valve.
- (3) *Temperature relief valve* means a temperature-actuated valve designed to discharge automatically at the temperature at which such valve is set.

Restroom means a room containing a water closet or urinal but not a bathtub or shower.

Rim means an unobstructed open edge of a fixture.

Riser. See "Water pipe, riser."

Secondary contaminant levels means those contaminant levels established by the state department of natural resources (DNR) for contaminants which may affect the taste, odor, color, staining and scale-forming tendencies of water.

Service connection means any water line or pipe connected to a water distribution main or pipe for the purpose of conveying water to a point of use.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Supplier of water means any person who owns, controls, and/or operates a public water main.

Swimming pool means any structure, basin, chamber or tank containing an artificial body of water for swimming, diving or recreational bathing having a depth of two feet (610 mm) or more at any point.

Tempered water means water ranging in temperature from 85 degrees Fahrenheit (29 degrees Celsius) to 110 degrees Fahrenheit (43 degrees Celsius).

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Third-party certification agency means an approved agency operating a product or material certification system that incorporates initial product testing, assessment and surveillance of a manufacturer's quality control system.

Third-party certified means certification obtained by the manufacturer indicating that the function and performance characteristics of a product or material have been determined by testing and ongoing surveillance by an approved third-party certifications agency. Acceptation of certification is in the form of identification in accordance with the requirements of the third-party certification agency.

Third-party tested means a procedure by which an approved testing laboratory provides documentation that a product, material or system conforms to specified requirements.

Treated water means water which is handled or processed in any manner to change the physical, chemical, biological or radiological content and includes water exposed to the atmosphere by aeration.

Toilet room means a room containing a water closet or urinal but not a bathtub or shower.

Vacuum means any absolute pressure less than that exerted by the atmosphere.

Vacuum breaker means a type of backflow preventer installed on opening subject to normal atmospheric pressure and which prevents backflow by admitting atmospheric pressure through ports to the discharge side of the device.

Water hammer arrestor means a device utilized to absorb the pressure surge (water hammer) that occurs when water flow is suddenly stopped in a water supply system.

Water heater means any heating appliance or equipment that heats potable water and supplies such water to the potable hot water distribution system.

Water main means a water supply pipe or system of pipes, installed and maintained by a city, township, county, public utility company or other public entity, on public property, in the street or in an approved dedicated easement of public or community use.

Water outlet means a discharge opening through which water is supplied to a fixture, into the atmosphere (except into an open tank which is part of the water supply system), to a boiler or heating system, or to any devices or equipment requiring water to operate but which are not part of the plumbing system.

Water pipe.

- (1) *Riser* means a water supply pipe that extends one full story or more to convey water to branches or to a group of fixtures.
- (2) *Water distribution pipe (line)* means a pipe within the structure or on the premises which conveys water from the water service pipe, or from the meter when the meter is at the structure, to the points of utilization.
- (3) *Water service pipe (line)* means the pipe from the water main or other source of potable water supply, or from the meter when the meter is at the public right-of-way, to the water distribution system of the building served.

Water supply system means the water service pipe, the water-distributing pipes, and the necessary connection pipes, fittings, control valves, and all appurtenances in or adjacent to the structure or premises.

Water system means all sources from which water is derived for drinking or domestic use by the public, also all structures, conduits and appurtenances by means of which water for such use is treated, stored or delivered to consumers, except service connections from water distribution systems to buildings and plumbing within or in connection with buildings served.

- (1) *Water supply source* means all sources of water supply including wells, springs, reservoirs, lakes, streams or rivers from which water is derived for public water systems, including the structures, conduits, pumps and appurtenances used to withdraw water from the source or to store or transport water to the water treatment facility or water distributions system.
- (2) *Water treatment facility* means a facility which uses specific processes such as sedimentation, coagulation, filtration, disinfection, aeration, oxidation, ion exchange, fluoridation or other processes which serve to add, alter or remove contaminants from a water supply source.
- (3) *Water distribution system* means all piping, conduits, valves, hydrants, storage facilities, pumps and other appurtenances, excluding service connections, which serve to deliver water from a water treatment plant or water supply source to the public.

Well.

- (1) *Bored* means a well constructed by boring a hole in the ground with an auger, and installing a casing.
- (2) *Drilled* means a well constructed by making a hole in the ground with a drilling machine of any type, and installing a casing and screen.
- (3) *Driven* means a well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.
- (4) *Dug* means a well constructed by excavating a large diameter shaft and installing a casing.

(Ord. No. 3.947, § 2(34.300.040), 2-14-2005)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.300.050. Cross connections prohibited.

No water service connection shall be installed or maintained at any building or premises where actual or potential cross connections to the public water supply system exist, unless such actual or potential cross connections are protected by an approved backflow prevention assembly.

(Ord. No. 3.947, § 2(34.300.050), 2-14-2005)

Sec. 9.300.060. Survey and inspection.

When it is necessary to make a survey and/or inspection to enforce the provisions of this chapter, or when the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter, the building official may enter the building or premises at all reasonable times to survey and/or inspect or to perform the duties imposed by this chapter. If such building or premises is occupied, the building official shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the building official shall make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

(Ord. No. 3.947, § 2(34.300.060), 2-14-2005)

Sec. 9.300.070. Backflow control by containment.

- (a) *Class I backflow hazards.* A Class I backflow hazard presents an actual or potential health hazard to customers of the public water system should backflow occur. The customer or the customer's authorized representative shall construct a state department of natural resources (DNR) approved air gap or install a reduced pressure principle backflow prevention assembly on the customer's water service line, in accordance with sections 9.300.090 and 9.300.100, when:
- (1) An actual or potential Class I backflow hazard exists at any facility;
 - (2) Modification is made to the customer's water system at an existing facility which is designated an actual or potential backflow hazard in subsection (b) of this section. If an addition or modification requiring a separate customer water service line is made to an existing facility, the new water service line, as well as the existing customer's water service line, shall be equipped with a DNR approved backflow prevention assembly;
 - (3) A new customer water service line connection is made to a facility listed in subsection (b) of this section; or
 - (4) A backflow incident occurs which introduces a contaminant into the public or customer water system, which may create a health hazard.
- (b) *Class I hazard types.* The following is a list, not all-inclusive, of actual or potential Class I backflow hazards:
- (1) Aircraft and missile manufacturing plants;
 - (2) Automotive plants including, but not limited to, those plants which manufacture motorcycles, automobiles, trucks, recreational vehicles and construction and agricultural equipment;
 - (3) Potable water dispensing stations which are serviced by a public water system;
 - (4) Beverage bottling plants including, but not limited to, dairies, soft drink bottlers and breweries;
 - (5) Canneries, packinghouses and reduction plants;
 - (6) Car washes;
 - (7) Chemical, biological and radiological laboratories including, but not limited to, those in high schools, trade schools, colleges, universities and research institutions;
 - (8) Hospitals, clinics, medical buildings, autopsy facilities, morgues, mortuaries, veterinary facilities, dental clinics and other medical facilities;
 - (9) Metal or plastic manufacturing, fabrication, cleaning, plating or processing facilities;
 - (10) Plants manufacturing paper and paper products;
 - (11) Plants 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 water system;
 - (12) Commercial facilities that use herbicides, pesticides, fertilizers or any chemical which would be a contaminant to the public water system;
 - (13) Plants processing, blending or refining animal, vegetable or mineral oils;
 - (14) Commercial laundries and dye works;

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- (15) Sewage, stormwater and industrial waste treatment plants and pumping stations;
 - (16) Waterfront facilities including piers, docks, marinas and shipyards;
 - (17) Industrial facilities which recycle water;
 - (18) Restricted or classified facilities or other facilities closed to the city or DNR;
 - (19) Fire sprinkler systems using any chemical additives;
 - (20) Auxiliary water systems, including but not limited to alternative water sources;
 - (21) Irrigation systems with facilities for injection of pesticides, herbicides or other chemicals or with provisions for creating backpressure. The backflow assembly may be installed between the customer's water service line and the irrigation system;
 - (22) Portable tanks for transporting water taken from a public water system;
 - (23) Facilities which have pumped or repressurized cooling or heating systems that are served by a public water system; and
 - (24) Facilities which contain any boiler system and are served by a public water system. The backflow assembly may be installed on the water service line to the boiler.
- (c) *Class II backflow hazards.* A Class II backflow hazard threatens to degrade the water quality of the public water system should backflow occur. The customer or the customer's authorized representative shall install, as minimum protection for Class II backflow hazards, a state department of natural resources (DNR) approved double checkvalve assembly on the customer water service line in accordance with sections 9.300.090 and 9.300.100, when:
- (1) An actual or potential Class II backflow hazard exists at any facility;
 - (2) Modification is made to the customer's water system at an existing facility which is designated an actual or potential backflow hazard in subsection (d) of this section. If an addition or modification requiring a separate customer water service line is made to an existing facility, the new water service line, as well as the existing customer's water service line, shall be equipped with a DNR approved backflow prevention assembly;
 - (3) A new customer water service line connection is made to a new facility listed in subsection (d) of this section; or
 - (4) A backflow incident occurs in any situation described in subsection (d) or (e) of this section.
- (d) *Class II hazard types.* The following is a list, not all-inclusive, of actual or potential Class II backflow hazards:
- (1) Tanks to store water from the public water system for firefighting only, unless the tanks meet the requirements of DNR for construction to maintain bacteriological quality of the water;
 - (2) Fire sprinkler systems not using chemical additives. This only applies to new fire sprinkler systems or fire sprinkler systems scheduled for modifications;
 - (3) Irrigation systems without facilities for injections of pesticides, herbicides or other chemicals. The backflow assembly may be installed between the customer's water service line and the irrigation system; and
 - (4) Cross connections that could permit introduction of contaminants into the public or customer water system and create a nuisance, be aesthetically objectionable or cause minor damage to the public water system or its appurtenances.
- (e) *Designating Class I or II backflow hazards.* Customer facilities not designated a backflow hazard by subsection (b) or (d) of this section may be designated a Class I or Class II backflow hazard by written notification from

the city or the state department of natural resources (DNR) 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 customer shall install or construct this assembly on the customer's water service line to the facility.

(Ord. No. 3.947, § 2(34.300.070), 2-14-2005)

Sec. 9.300.080. Approved backflow prevention assemblies.

- (a) *List of approved assemblies.* The state department of natural resources (DNR) maintains a current list of approved backflow prevention assemblies.
- (b) *Air gaps.* The discharge pipe of an approved air gap shall terminate a minimum of two pipe diameters of the discharge pipe above the flood-level rim of the receiving vessel; in no case shall the distance be less than one inch (25.4 mm).
- (c) *Double checkvalve and reduced pressure principle assemblies.* Only those models of double checkvalve assemblies and reduced pressure principle backflow prevention assemblies which are approved by the Foundation of Cross Connection Control and Hydraulic Research of the University of Southern California and are on the approved list maintained by DNR are acceptable.

(Ord. No. 3.947, § 2(34.300.080), 2-14-2005)

Sec. 9.300.090. Standards of construction and installation.

- (a) *Installation location.* Backflow prevention assemblies shall be installed on the customer water system as close as possible to the point of service connection and prior to any other connection or branch line. If it is not possible to install the backflow prevention assembly as described, then installation shall be the approval of the state department of natural resources (DNR).
- (b) *Reduced pressure principle assembly.* Reduced pressure principle backflow prevention assemblies shall be installed with no plug or additional piping affixed to the pressure differential relief valve port (except for specifically designed funnel apparatus available from the manufacturer) and with the pressure differential relief valve port a minimum of 12 inches (304.8 mm) above floor level. Additionally, the assembly shall be installed at a location where any leakage from the pressure differential relief valve port will be noticed, that allows easy access to the assembly for maintenance and testing, and that will not subject the assembly to excessive heat or freezing.
- (c) *Double checkvalve assembly.* All double checkvalve assemblies shall be installed at a location that allows easy access to the assembly for maintenance and testing and that will not subject the assembly to excessive heat or freezing.
- (d) *Bypass.* No bypass piping shall be allowed around a backflow prevention assembly unless the bypass is equipped with the same degree of backflow prevention protection.

(Ord. No. 3.947, § 2(34.300.090), 2-14-2005)

Sec. 9.300.100. Backflow prevention assembly testing and inspection.

- (a) *Generally.* All backflow prevention assemblies shall be inspected and tested by testers certified in accordance with the requirements and procedures set forth by the state department of natural resources (DNR).

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- (b) *Air gaps.* Air gaps shall be inspected each year by a date which is no later than 30 days past the anniversary date established by the city to ensure that they continue to meet the requirements of section 9.700.080(b).
 - (c) *Reduced pressure principle assemblies.* Reduced pressure principle backflow prevention assemblies shall be tested by a certified backflow prevention assembly tester each year by a date which is no later than 30 days past the anniversary date established by the city to ensure that:
 - (1) The pressure differential relief valve operates to maintain the zone between the two checkvalves at least 2.0 psi (13.79 kPa) less than the supply pressure;
 - (2) The #2 checkvalve is leaktight against reverse flow under all pressure differentials; and
 - (3) The static pressure drop across the #1 checkvalve is at least 3.0 psi (20.68 kPa) greater than the pressure differential between the supply pressure and the pressure in the zone required to open the pressure differential relief valve.
 - (d) *Double checkvalve assemblies.* Double checkvalve assemblies shall be tested each year by a certified backflow prevention assembly tester by a date which is no later than 30 days past the anniversary date established by the city to ensure that the #1 and #2 checkvalves maintain at least 1.0 psi (6.89 kPa) differential in the direction of flow and are leak-tight against reverse flow under all pressure differentials.
 - (e) *Test reports.* All certified backflow prevention assembly testers shall report to the city, to the customer, and, if requested, to DNR the results of inspections or tests conducted in compliance with this section. Reports of tests shall contain the signature of the certified backflow prevention assembly tester attesting to the compliance (or noncompliance) of the assembly with established operational requirements. Routine reports shall be submitted within 30 days after making the inspection or test.

(Ord. No. 3.947, § 2(34.300.100), 2-14-2005)

Sec. 9.300.110. Customer responsibilities.

- (a) *Generally.* The customer shall furnish, install and maintain in working order at all times any backflow prevention assembly required by this chapter.
- (b) *Inspections and tests.* To ensure that each backflow prevention assembly required by this chapter is in working order, the customer shall have each assembly inspected and tested by a certified backflow prevention assembly tester at the time of construction or installation and at the frequency specified in section 9.300.100.
- (c) *Access.* The customer shall permit access to the premises by the certified backflow prevention assembly tester, the city building official and state department of natural resources (DNR) representatives, at reasonable times and upon presentation of identification, for inspection of the customer water system or testing of backflow prevention assemblies installed in accordance with this chapter.

(Ord. No. 3.947, § 2(34.300.110), 2-14-2005)

Sec. 9.300.120. Water purveyor's responsibilities; removal of water meter.

Because backflow may cause a health hazard through transmission of contaminants via the water supply system, the city shall remove the water meter or otherwise sever the water supply system from the customer water service line serving a facility when the city:

- (1) Has knowledge that the customer is causing or maintaining an unprotected cross connection;

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- (2) Has knowledge that the customer is failing or refusing to proceed without delay to correct any violation of the provisions of this chapter after having been notified to do so; or
 - (3) Is so ordered by the state department of natural resources (DNR).

(Ord. No. 3.947, § 2(34.300.120), 2-14-2005)

Sec. 9.300.130. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to install, alter, repair, move, remove or tamper with any backflow assembly regulated by this chapter, or cause same to be done, in conflict with or in violation of the provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made thereunder shall have such person's water meter removed or the city shall otherwise sever the water service line, serving the facility in violation, from the water supply system.

(Ord. No. 3.947, § 2(34.300.130), 2-14-2005)

CHAPTER 400. ELECTRICAL REGULATIONS (RESERVED)⁶⁴

⁶⁴Editor's note(s)—Ord. No. 4.321 Editor's note(s)—, adopted Sept. 14, 2015, repealed ch. 400Editor's note(s)— and enacted a new chapter pertaining to electrical regulations. The former ch. 400Editor's note(s)—, §§ 9.400.010—9.400.120, derived from Ord. No. 4.230, adopted Feb. 25, 2013. The new ch. 400Editor's note(s)— is not set out herein, but can be found on file in the office of the city clerk.

Secs. 9.400.010—9.400.120. Reserved.

CHAPTER 500. ENERGY CONSERVATION REGULATIONS (RESERVED)⁶⁵

⁶⁵Editor's note(s)—Ord. No. 4.321 Editor's note(s)—, adopted Sept. 14, 2015, repealed ch. 500Editor's note(s)— and enacted a new chapter pertaining to energy conservation regulations. The former ch. 500Editor's note(s)—, §§ 9.500.010—9.500.040, derived from Ord. No. 4.230, adopted Feb. 25, 2013. The new ch. 500Editor's note(s)— is not set out herein, but can be found on file in the office of the city clerk.

Secs. 9.500.010—9.500.040. Reserved.

CHAPTER 600. FIRE PREVENTION REGULATIONS

ARTICLE 1. FIRE CODE.

Sec. 9.600.010. Adoption of the 2015 International Fire code.

That a certain document, one copy of which is on file in the office of the City Clerk of the City of Gladstone, Clay County, Missouri, in perpetuity, being marked and designated as the International Fire Code, 2015 edition, including appendix chapters:

Appendix B, Fire-Flow Requirements for Buildings;
Appendix C, Fire Hydrant Locations and Distributions;
Appendix D, Fire Apparatus Access Roads;
Appendix E, Hazard Categories;
Appendix F, Hazard Ranking;
Appendix G, Cryogenic Fluids—Weight and Volume Equivalents;
Appendix H, Hazard Materials Management Plan (HMMP) and Hazardous Materials Inventor Statement (HMIS) Instructions;
Appendix I, Fire Protection Systems—Noncompliant Conditions; and
Appendix J, Building Information Sign

as published by the International Code Council, be and is hereby adopted as the Fire Code of the City of Gladstone, Clay County, Missouri, for regulating and governing the safeguard of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code on file in the office of the city clerk of the City of Gladstone, Clay County, Missouri are hereby referred to, adopted, and made a part hereof, as if fully set out in the legislation, with the amendments, additions, and deletions, if any, prescribed in section 9.600.020 of this chapter.

That if any section, subsection, sentence, clause or phrase of this legislation is, for any reason, held to be unconstitutional, or otherwise be declared invalid, such decision shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof; irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional, or otherwise be declared invalid.

That nothing in this legislation or in the fire code hereby be adopted shall be construed to affect any suit or proceeding pending in any court, or right acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

(Ord. No. 4.394, § 2(A.), 8-28-2017)

Sec. 9.600.020. Amendments, additions, and deletions to the 2015 International Fire Code.

9.600.020.1 Amendments. The followings sections of the 2015 International Fire Code are omitted and not hereby incorporated as the follow identically numbered sections are adopted in lieu thereof:

[A] 101 Title. These regulations shall be known as the *Fire Code* of the City of Gladstone, Clay County, Missouri, hereinafter referred to as "this code".

[A] 102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 80, and such code and standards shall be considered to be part of the requirements of this code to the prescribed extent of each such referenced and as further regulated in Sections 102.7.1 and 102.7.2. In addition to the codes and standards referenced in Chapter 80 the following codes and standards shall be considered to be part of the requirements of this code:

- ▷ NFPA 3: Recommended Practice for Commissioning of Fire Protection and Life Safety Systems,
- ▷ NFPA 10: Standard for Portable Fire Extinguishers,
- ▷ NFPA 13: Standard for Installation of Sprinkler Systems,
- ▷ NFPA 14: Standard for the Installation of Standpipe and Hose Systems,
- ▷ NFPA 20: Standard for the Installation of Stationary Pumps for Fire Protection,
- ▷ NFPA 24: Standard for the Installation of Private Fire Service Mains and Their Appurtenances,
- ▷ NFPA 25: Standard for the Inspection, Testing, and Maintenance of Water Based Fire Protection Systems,
- ▷ NFPA 58: Liquid Petroleum Gas Code,
- ▷ NFPA 72: National Fire Alarm and Signaling Code,
- ▷ NFPA 99 Health Care Facilities Code, and

SECTION 108 MEANS OF APPEAL

[A] 108.1 Application for appeal. A person shall have the right to appeal a decision of the *fire code official* to the board of appeals. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The application shall be filed on a form obtained from the *fire code official* within twenty (20) calendar days after the notice was served.

[A] 109.4 Violation penalties. Any person who shall violate a provisions of this code, fail to comply with any of the requirements thereof or erect, install, alter or repair or do work in violation of the *approved construction documents* or directive of the *fire code official*, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor, punishable as provided for in Section 1.100.140 of the Gladstone Code of Ordinances. The imposition of one (1) penalty shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each day that a violation continues after due notice has been served shall be deemed a separate offense.

[A] 111.4 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 guilty of a misdemeanor, punishable as provided for in Section 1.100.140 of the Gladstone Code of Ordinances.

308.1.4 Open-flame cooking devices. Open-flame cooking, heating, or decorative devices, fueled by charcoal, wood, propane gas, natural gas, or other such fuels, and the fuels for such devices, shall not be operated, stored or located on decks, balconies, porches, and patios, or within ten (10) feet (3048 mm) of any dwelling unit within any apartment building; as defined in Title X, Chapter 200, Division 2, Section 10.200.202.

503.3 Marking. Where required by the *fire code official*, *approved* signs or other *approved* notices or markings that include the words NO PARKING - FIRE LANE shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which *fire lanes* are designated shall be maintained in a clean and legible condition at all times and be replaced, repaired, or repainted when necessary to provide adequate visibility.

The entire face and top of curb shall be painted either Red with White lettering or Yellow with Red lettering. Lettering shall be 4 inches (102 mm) high with a minimum stroke width of ¾ inch (19 mm) and shall be spaced no further apart than 25 feet (7.6 m) along the face of the curb.

In the absence of curb and where specified by the *fire code official* shall be marked with a 10 inch (254 mm) Red strip with White lettering or a Yellow Strip with Red lettering. Lettering shall be 4 inches (102 mm) high with a minimum stroke width of ¾ inch (19 mm) and shall be spaced no further apart than 25 feet (7.36 m).

If vertical signage is used, the minimum cumulative size shall be 96 square inches (0.06 m²). The sign shall contain the words "No Parking" or the universal symbol for no parking along with the words "Fire Lane". The sign shall be white with red lettering. The bottom of the sign shall be mounted 7 feet (2 m) above grade and outer edge of the sign shall be 2 feet (610 mm) to 3 feet (914 mm) from the front face of the curb or edge of pavement when no curb present. Signs shall be spaced no further apart than 20 feet (6 m).

505.1 Address identification. New and existing buildings shall be provided with *approved* address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 8 inches (203 mm) high with a minimum stroke width of ½ inch (12.7 mm). Where required by the *fire code official*, address identification shall be provided in additional *approved* locations to facilitate emergency response. Where access is by means of a private road and the building cannot be view from the *public way*, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

Exceptions:

1. Residential Group R-2 and R-3 shall be a minimum of 4 inches (102 mm).
2. Home Day Care Facilities approved by a Special Use Permit shall be 6 inches (152 mm) high.
3. Existing non-conforming uses shall not be required to modify their addresses; unless they are so worn, faded, or otherwise required to be replaced by the *fire code official* for due cause.

506.1.1 Locks. An *approved* lock, lockable device or shutoff device shall be installed on the following:

The following shall require a key box or an approved lockable or shutoff device.

1. All fire department connections and standpipe connections.
Exception: Existing connections shall be converted by January 1, 2023 or if the *fire code official* finds missing cap(s) then all connections shall be brought into compliance promptly.
2. Automatic entrance gates or similar barriers shall be equipped with an approved fire department operating/opening device.
3. Non-automatic entrance gates or similar barriers.
4. Excessive travel from entrance or other exigent circumstances exist.
5. Electrical service(s) in excess of 200 amps.

507.5.2 Inspection, testing and maintenance. Fire hydrant systems shall be subject to periodic testing as required by the *fire code official*. Fire hydrant systems shall be maintained in an operative condition at all times and shall be

repaired where defective. Additions, repairs, *alterations* and servicing shall comply with *approved* standards and NFPA 291. Records of tests and required maintenance shall be maintained.

507.5.3 Private fire service mains and water tanks. Private fire service mains and water tanks shall be periodically inspected, tested and maintained in accordance with NFPA 25 and NFPA 291 at the following intervals:

1. Private fire hydrants of all types: Inspection annually and after each operation; flow test and maintenance annually.
2. Fire service main piping: Inspection of exposed, annually; flow test every 5 years.
3. Fire service main piping strainers: Inspection and maintenance after each use.

Records of inspections, testing and maintenance shall be maintained.

507.5.5 Clear space around hydrants. A 5-foot (1,524 mm) clear space shall be maintained around the circumference of the fire hydrants, except as otherwise required or *approved*.

Exception: No tree shall be planted within ten (10) feet of any fire hydrant.

509.1 Identification. Fire protection equipment shall be identified in an *approved* manner. Rooms containing controls for mechanical systems, sprinkler riser and valves, or other fire detection, suppression or control elements shall be identified for the use of the fire department.

Approved signs required to identify fire protection equipment and equipment location shall be constructed of durable materials, permanently installed and readily visible. Signage shall be affixed to the doors of these rooms. The signage shall be red letters a minimum of 4 inches (102 mm) high with a minimum stroke width of ½ inch (12.7 mm). The *fire code official* may require trailblazing signage from the main entrance to these rooms.

912.2 Location. With respect to hydrants, driveways, buildings and landscaping, fire department connections shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of the fire department connection shall be located within 75 feet (22,860 mm) of a fire hydrant and within 10 feet (3,048 mm) from a paved surface and shall be *approved* by the *fire code official*.

912.5 Signs. A metal sign with raised letters not less than 4 inches (102 mm) in size shall be mounted on all fire department connections serving automatic sprinklers, standpipes or fire pump connections. Such signs shall read: AUTOMATIC SPRINKLERS or STANDPIPES or TEST CONNECTION or a combination thereof as applicable. Where the fire department connection does not serve the entire building, a sign shall be provided indicating the portions of the building served.

[BE] 1004.3 Posting of occupant load. Every room or space that is an assembly occupancy shall have the *occupant load* of the room or space posted in a conspicuous place, near the main *exit* or *exit access* doorway from the room or space. Posted signs shall be an *approved* legible permanent design using Arabic numerals or alphabet letters with letters a minimum height of 3 inches (76.2 mm) and a minimum stroke width of ½ inch (12.7 mm).

5601.1.3 Fireworks. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited.

Exceptions:

1. Storage and handling of fireworks as allowed in Section 5604.
2. Manufacture, assembly and testing of fireworks as allowed in Section 5605.
3. The use of fireworks for fireworks displays as allowed in Section 5608.
4. The possession, storage, sale, handling and use of specific types of Division 1.4G fireworks where allowed by applicable laws, ordinances and regulations, provided such fireworks and facilities comply with NFPA 1124, CPSC 16 CFR Parts 1500 and 1507, and DOTn 49 CFR Parts 100-185, for consumer fireworks.

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5. The use or possession of fireworks of any kind within the jurisdiction's parkland is permitted, by permit, only when authorized in writing by the Parks, Recreation and Cultural Arts Director for outdoor special events.

5601.2.2 Sale, retail display, use and possession. Within the jurisdiction, *persons* shall not:

1. Construct a retail display or offer for sale *explosives, explosive materials* or fireworks.
2. Offer for sale, sell, purchase, use, ignite, display or discharge any fireworks.
3. Possess any fireworks.

Exception: Fireworks safely stored within a home or within the locked truck or other locked storage compartment of a motor vehicle.

4. Permit the sale, purchase, use, ignition, display, explosion or possession of fireworks by another person upon any real property they are in control of.
5. Display or cause to be displayed public fireworks for entertainment purposes.

5601.2.4.1 Blasting. Blasting is prohibited within the jurisdiction.

5704.2.9.6.1 Locations where above-ground tanks are prohibited. Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited, provided that an application for a permit may be filed for a tank with a capacity of up to 1,000 gallons if such tank will be located on any property zoned for commercial or industrial use; or property used for industrial purposes, regardless of the property's zoning. Not more than 1,000 gallons of combustible or flammable liquid shall be stored on any one lot, tract, parcel or premises.

5706.2.4.4 Locations where above-ground tanks are prohibited. Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited, provided that an application for a permit may be filed for a tank with a capacity of up to 1,000 gallons if such tank will be located on any property zoned for commercial or industrial use; or property used for industrial purposes, regardless of the property's zoning. Not more than 1,000 gallons of combustible or flammable liquid shall be stored on any one lot, tract, parcel or premises.

5806.2 Limitations. Storage of flammable *cryogenic fluids* in stationary containers outside of buildings is prohibited, provided that an application for a permit may be filed for a tank with a capacity of up to 1,000 gallons if such tank will be located on any property zoned for commercial or industrial use; or property used for industrial purposes, regardless of the property's zoning. Not more than 1,000 gallons of combustible or flammable liquid shall be stored on any one lot, tract, parcel or premises.

6104.2 Maximum capacity within established limits. Storage of liquefied petroleum gas is prohibited, provided that an application for a permit may be filed for a tank with a water capacity of 2,000 gallons if such tank will be located on property with an M-1 use. Not more than 2,000 gallons, water capacity, of liquefied petroleum gas shall be stored on any lot, tract, parcel or premises.

Sec. 9.600.020.2 Additions. The following sections are hereby incorporated and adopted in the 2015 International Fire Code:

104.11.4 Temporary directive. A dangerous condition not specifically addressed by this code but in the opinion of the ~~Chief of Police~~[Director of Public Safety](#), Fire/EMS Division Chief, and/or the *fire code official*, is a dangerous condition that relates to the intention of this code and that constitutes a distinct hazard to life or property; a temporary directive may be issued to address such condition. The directive shall expire no later than sixty (60) days from the date of issuance.

106.2.1.1 Priority inspections. An inspection request that is time sensitive; which the *fire code official* reprioritizes to occur out of a routine inspection schedule.

106.5 Annual inspections. The *fire code official* is authorized to conduct annual inspections of commercial businesses, places of assembly, and other buildings as identified by this code; for fire hazards and life safety hazards.

106.5.1 Inspection decals. The *fire code official* may place a decal on the exterior of the building to identify that an annual inspection has been conducted and passed. Such decal may also identify building systems or special consideration that may exist inside the building that may affect the priority or operations of emergency response. The decal shall indicate the nominal year of the inspection and shall not be removed without the permission of the *fire code official*.

106.6 State required inspections: The *fire code official* may require documentation that the following items have been inspected annually as required by the State Fire Marshal's Office:

1. Fire sprinkler systems,
2. Daycares,
3. Residential institutions,
4. Amusement rides,
5. Pressure vessels, and
6. Elevators.

307.1.2 Prohibited burning. The following shall be prohibited within the jurisdiction:

1. The burning of rubbish and/or garbage.

Exception: Burning may be done in an incinerator approved by the local health department and the jurisdiction.

2. Persons who willfully set fire to any grass, weeds or any other flammable materials outdoors.

Exceptions:

- a. The use of charcoal, lighter fluid, wood chips and similar flammable materials for the sole use of cooking or smoking food. Such materials shall be located within a device specifically designed for this purpose, located away from combustible materials, attended at all times and extinguished immediately after completion of use.
- b. Temporary UL-approved heating devices located away from combustible materials, be attended by competent person and compliant with this code.
- c. The use of fifty-five (55) gallon barrels or similar devices containing a minimal amount of untreated natural wood construction waste may be utilized for warming of construction workers. Such containers shall be located away from combustible materials, attended at all times and extinguished immediately after completion of use. This method of warming is only applicable to construction sites possessing a valid building permit, which authorizes the construction of structures exceeding 1,200 square feet and may be prohibited by the jurisdiction at any time upon written notice to the holder of the building permit.
- d. Fire pits in compliance with this code.

3. The burning of solid waste as defined by applicable federal, state and local regulations.

307.1.3 Fire hazard emergency. The City Manager may declare a fire hazard emergency and prohibit open burning of any material for the protection of the health, welfare and safety of the jurisdiction. Such prohibition against open burning shall continue until rescinded by the City Manager.

307.6 Parkland. The igniting and maintaining of any fire on parkland is prohibited.

Exception: In designated grills or other fireplaces provided by the jurisdiction as prescribed:

1. Fire shall not be left unattended.
2. Fire shall be extinguished after use.

307.6.1 Fire danger. The jurisdiction may prohibit all fires on parkland by posting of signs to that effect during designated periods of drought.

507.2.1.1 Fire hydrant makings. Fire hydrants located on private fire service mains and/or private water mains shall have their bases painted red and the caps shall be painted as follows:

1. 2-inch main shall be painted Red.
2. 4-inch main shall be painted Orange.
3. 6-inch main shall be painted Green.
4. 8-inch or larger main shall be painted Blue.

504.4 Signage. Door(s) leading from a common area or hallway to the building roof access shall have signage affixed to the door(s). The signage shall be letters a minimum of 4 inches (102 mm) high with a minimum stroke width of ½ inch (12.7 mm). The letters shall be contrasting to the background.

506.1.1.1 Decals. The *fire code official* may place a decal on doors servicing occupancies with any of the boxes, locks or devices in sections 506.1 and 506.1.1.

507.5.7 Crossing or driving over fire hose. It shall be unlawful for the driver of any vehicle to drive over an unprotected fire hose when laid down on any street, alley, parking lot, or private way, or cause to be done or cause to be done in violation of this section.

Exception: With approval of the Fire Department official in charge on scene.

607.9 Elevator machine room access and signage. An *approved* means of access shall be provided to the elevator machine rooms, control rooms, control spaces and machinery spaces. The door(s) to these rooms shall have signage affixed to the door(s). The signage shall be red letters a minimum of 4 inches (102 mm) high with a minimum stroke width of ½ inch (12.7 mm). The *fire code official* may require trailblazing signage from the main entrance to the elevator mechanical room.

903.2.12.1 Cumulative renovation. In consideration of whether an *automatic sprinkler system* must be installed in a building, where any adopted code defines the threshold for renovations of 50% or more of a floor or building for applicability of codes in consideration of an *automatic sprinkler system*, the 50% shall be defined as the cumulative sum of the floor and/or building area for all work performed and/or permits obtained since January 1, 2015.

912.2.3 New buildings. The exterior fire department connection, building or remote connection, shall be indicated by an *approved* sign mounted to or adjacent to the fire department connection. Such sign shall have letters "FDC" not less than 6 inches (152 mm) in height. The letters shall be white reflective lettering on a red retro-reflective background.

913.1.1 Required. Fire pumps shall be required for commercial buildings that require fire sprinkler systems where the following conditions exist:

1. The building exceeds 2 stories in height measured from any ground surface level. This shall include a 2 story building with a basement exposed on at least one side of the building with a walk-out door or window, and
2. The static pressure on the fire main serving the building sprinkler system has less than 80 psi (551.58 kPa) as measured in the highest hours of demand annually for the system or residual pressure below 60 psi (413.69 kPa). In absence of any specific information the demand hour shall be considered the highest hour between Noon and Midnight in during the first week of August.

Where fire pumps are required they shall be electric motor driven; unless otherwise specifically approved by the *fire code official*.

1022.2.3 Numbering. Where a building or structure, either with one or multiple tenants, has three or more exits, a sequential numbering system shall be required. The numbers shall be affixed to the doors on the interior and exterior. The numbers shall be red with a minimum height of 4 inches (102 mm) and a minimum stroke width of ½ inch (12.7 mm).

3304.1.1 Ignitable and combustible materials. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or materials within or against any building, vehicle, or under any tree or in underbrush.

5608.2.3 Bond required. Prior to issuing any permit for a fireworks display, the applicant shall file with the jurisdiction a surety bond or a public liability policy in the amount requested by the jurisdiction having authority, for the purpose of the payment of damages to property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgement results. The surety bond or public liability policy shall list the jurisdiction having authority as additionally insured.

SECTION D109 PROTECTION OF TRAFFIC

D109.1 Trenches and excavations. Street/road/highway construction within or adjacent to fire apparatus access roads shall have erected and maintain suitable timber barriers to confine earth from trenches and excavations in order to encroach upon streets/roads/highways as little as possible. The construction site shall be maintained with adequate and safe crossings over trenches and excavations under improvement to accommodate vehicular and pedestrian traffic.

Sec. 9.600.020.3 Deletions. The following sections of the 2015 International Fire Code are omitted and not hereby incorporated:

[A] 108.2 Limitation on authority.

[A] 108.3 Qualifications.

1103.2 Emergency responder radio coverage in existing buildings.

(Ord. No. 4.394, § 2(A.), 8-28-2017)

Sec. 9.600.030. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provisions of this chapter.
- (b) *Violation; penalties.* Any person, who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided for in section 1.100.140 of the Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. No. 4.394, § 2(A.), 8-28-2017)

ARTICLE 2. AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM

Sec. 9.600.040. General provisions.

- (a) *Title.* This article shall be known as automated external defibrillator (AED) program of the City of Gladstone, Clay County, Missouri, hereinafter referred to as "this article"
- (b) *Intent.* The purpose of this article is to create and maintain the city's public AED program and establish guidelines for use, training, and data collection, as well as requirements and procedures for implementing and using AED's by qualified laypersons within the city.
- (c) *Severability.* If a section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional or otherwise invalid; such decision shall not affect the validity of the remaining portions of this article.
- (d) *Validity.* In the event any part or provision of this article is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions hereof, which are determined to be legal; and it shall be presumed that this article would have been adopted without such illegal or invalid parts or provisions.

(Ord. No. 4.394, § 2(A.), 8-28-2017)

Sec. 9.600.050. Applicability.

- (a) *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of this article specify different requirements, the most restrictive shall govern.
- (b) *Other laws.* The provision of this article shall not be deemed to nullify any provisions of local, state or federal law.

(Ord. No. 4.394, § 2(A.), 8-28-2017)

Sec. 9.600.060. Definitions.

- (a) *Scope.* Unless otherwise expressly stated, the following words and terms shall, for the purpose of this article, have the meaning shown in this section.
- (b) *Interchangeability.* Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.
- (c) *Terms not defined.* Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.
- (d) *General definitions.*

Authorized user. Any person who has met the training standards of this article, and is authorized to use an AED by the program manager in accordance with this article.

Automated external defibrillator (AED). An external defibrillator capable of cardiac rhythm analysis that will charge and, with or without further operator action, deliver a shock after electronically detecting that a "shockable rhythm" is present.

Fire division chief. The ~~Fire Chief, chief of the fire and EMS division,~~ as appointed by the ~~director of public safety of the city~~ city manager.

Health care facility. A hospital, nursing home, physician's office or other fixed location at which medical and health care services are routinely preformed.

Medical director. A physician, appointed by the city manager, who is trained to operate, maintain, and review usage of AED's and who develops, implements, and maintains the medical control provisions of this article and any regulations promulgated pursuant thereto.

Program manager. A person, appointed by the ~~director of public safety~~Fire Chief, who works with the medical director to oversee the administration of the PAD program at specific sites within the city.

Public access defibrillation (PAD) program. The program to provide and utilize AED's by rescuers to treat victims of cardiac arrest in public or private places, including first aid providers not associated with the pre-hospital emergency medical services provider for the City; staff of nursing homes not otherwise exempt by this article, and similar activities.

Public access defibrillation (PAD) site. An agency, business, organization, individual, or other entity that sponsors a PAD program and allows placement of an AED on its premises.

(Ord. No. 4.394, § 2(A.), 8-28-2017)

Sec. 9.600.070. AED'S; use of.

No business, entity, institution, or person shall begin a public access defibrillator program or maintain an existing public access defibrillator program unless certified by the ~~director of public safety~~Fire Chief or his/her designee.

Exceptions:

- (1) Hospitals licensed by the State of Missouri.
- (2) Physicians licensed by the State of Missouri as a physician pursuant to RSMo ch. 334.
- (3) Nurses licensed by the State of Missouri as a nurse pursuant to RSMo ch. 335.
- (4) Mutual aid providers working for an ambulance service, fire department, or other emergency medical services (EMS) agency that are called into the city to provide mutual aid to the city's pre-hospital emergency medical services.
- (5) Person(s) working for the City of Gladstone's Fire and EMS Division that are trained and approved by the city to provide pre-hospital emergency medical services.
- (6) Health care facilities that are properly licensed by the State of Missouri.

(Ord. No. 4.394, § 2(A.), 8-28-2017)

Sec. 9.600.080. Fire division chief and program manager duties.

- (a) *General.* The ~~Fire Chief~~~~director of public safety, fire division chief~~ and program manager are hereby authorized to enforce the provisions of this article and shall have the authority to render interpretations of this article, and to adopt policies, procedures, rules and regulations in order to clarify the application of its provisions. Such interpretations, policies, procedures, rules and regulations shall be in compliance with the intent and purpose of this article and shall not have the effect of waiving requirements specifically provided for in this article.
- (b) *Duties;* ~~director of public safety~~Fire Chief. The ~~director of public safety~~Fire Chief or his/her designee shall have the following duties:

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(Supp. No. 9)

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- (1) Shall have the right to audit any use of an automated external defibrillator that is subject to this article. The ~~director of public safety~~Fire Chief or his/her designee may review maintenance and repair records, training records, reports of cardiopulmonary resuscitation or automated external defibrillator use, and any other records necessary to determine compliance with the terms of this article and any corresponding regulations. The audit may also include gathering clinical data and information from the person who used the automated external defibrillator, and from the automated external defibrillator itself.
 - (2) May delegate duties to appropriate personnel, including the medical director or other persons or entities determined by the ~~director of public safety~~Fire Chief to be qualified to oversee the operations of the public access defibrillation program.
 - (3) Shall review or have reviewed applications of the public access defibrillation program and certify only those programs that establish conformance with the public access defibrillation program duties, defined by this article and any adopted regulations. Such certification shall be effective for 12 months following such certification, unless it is revoked as a result of an audit by the fire division chief or program manager, which determines that the public access defibrillation program has failed to comply with the public access defibrillation program regulations outlined in section 9.600.090. Each public access defibrillation program must apply and be re-certified every 12 months.
- (c) *Duties; program manager.* The program manager shall have the following duties:
- (1) Shall maintain a list of authorized public access defibrillation sites, which shall be available to the Gladstone Fire and EMS Division.
 - (2) Shall have the right to audit any use of an automated external defibrillator that is subject to this article. The program manager may review maintenance and repair records, training records, reports of cardiopulmonary resuscitation or automated external defibrillator use, and any other records necessary to determine compliance with the terms of this article and any corresponding regulations. The audit may also include gathering clinical data and information from the person who used the automated external defibrillator, and from the automated external defibrillator itself.

(Ord. No. 4.394, § 2(A.), 8-28-2017)

Sec. 9.600.090. Public access defibrillation program regulations.

- (a) *General.* Any person, business, entity, or institution acquiring an automated external defibrillator shall adhere to the following regulations:
 - (1) *Training.* Authorized use of an automated external defibrillator shall be only by persons who have received training by the American Heart Association, American Red Cross, or an equivalent nationally recognized course approved by the medical director, which includes training in the identification of cardiac arrest, administration of cardiopulmonary resuscitation, and the use of automated external defibrillators.
 - (2) *Maintenance.* Automated external defibrillators shall be maintained and tested in accordance with the manufacture's operational guidelines, and maintain records of the same. Records of maintenance and testing shall be made available to the ~~director of public safety, fire division chief~~Fire Chief and/or program manager upon request.
 - (3) *Automated external defibrillator; notification of use.* Any person who renders emergency care or treatment outside of a health care facility or emergency medical services system by using an automated external defibrillator must notify the emergency medical services system through proper us

of the 911 system or other means, to seek pre-hospital emergency medical services, as soon as possible.

- (4) *Medical control.* Anyone acquiring an automated external defibrillator for use outside a *health care facility* shall have an authorized physician to:
- Provide the medical protocol for the use of the device;
 - Review and advise regarding the training and skill maintenance of authorized users; and
 - Review situations where the automated external defibrillator is used to render emergency care.
- Such protocol will be made available to the ~~director of public safety~~Fire Chief or his/her designee upon request. The city's medical director may be utilized to satisfy requirements of this subsection.
- (5) *Cooperation with the ~~director of public safety, fire division chief~~Fire Chief and/or program manager.* Any user of an automated external defibrillator shall fully cooperate with officials within the ~~public safety~~fire department in any audit or other quality assurance review, including the retrieval of clinical data from the device itself.
- (6) *List of authorized user.* A public access defibrillation program shall maintain a list of the authorized users, which shall also reflect the user's training and qualifications. This list is subject to audit by the officials within the ~~public safety~~fire department.

(Ord. No. 4.394, § 2(A.), 8-28-2017)

Sec. 9.600.100. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provisions of this chapter.
- (b) *Violation; penalties.* Any person, who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided for in section 1.100.140 of the Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. No. 4.394, § 2(A.), 8-28-2017)

CHAPTER 700. FUEL GAS REGULATIONS (RESERVED)⁶⁶

⁶⁶Editor's note(s)—Ord. No. 4.321 Editor's note(s)—, adopted Sept. 14, 2015, repealed ch. 700Editor's note(s)— and enacted a new chapter pertaining to fuel gas regulations. The former ch. 700Editor's note(s)—, §§ 9.700.010—9.700.030, derived from Ord. No. 4.230, adopted Feb. 25, 2013. The new ch. 700Editor's note(s)— is not set out herein, but can be found on file in the office of the city clerk.

Secs. 9.700.010—9.700.030. Reserved.

CHAPTER 800. MECHANICAL REGULATIONS (RESERVED)⁶⁷

⁶⁷Editor's note(s)—Ord. No. 4.321 Editor's note(s)—, adopted Sept. 14, 2015, repealed ch. 800Editor's note(s)— and enacted a new chapter pertaining to mechanical regulations. The former ch. 800Editor's note(s)—, §§ 9.800.010—9.800.030, derived from Ord. No. 4.230, adopted Feb. 25, 2013. The new ch. 800Editor's note(s)— is not set out herein, but can be found on file in the office of the city clerk.

Secs. 9.800.010—9.800.030. Reserved.

CHAPTER 900. PLUMBING REGULATIONS (RESERVED)⁶⁸

⁶⁸Editor's note(s)—Ord. No. 4.321 Editor's note(s)—, adopted Sept. 14, 2015, repealed ch. 900Editor's note(s)— and enacted a new chapter pertaining to plumbing regulations. The former ch. 900Editor's note(s)—, §§ 9.900.010—9.900.120, derived from Ord. No. 4.230, adopted Feb. 25, 2013. The new ch. 900Editor's note(s)— is not set out herein, but can be found on file in the office of the city clerk.

Secs. 9.900.010—9.900.120. Reserved.

CHAPTER 1000. ABATEMENT OF NUISANCES⁶⁹

⁶⁹Editor's note(s)—Ord. No. 4.468, §§ 1—4, adopted April 22, 2019, in effect repealed Chapter 1000Editor's note(s)— which was reserved as property maintenance regulations, and added provisions designated as Chapter 1000Editor's note(s)—, §§ 9.1000.000Editor's note(s)—9.1000.030, as set out herein.

Sec. 9.1000.000. Public nuisance; purpose; definition.

- (a) Any person who shall create, commit, permit, or continue a nuisance of any kind, nature or description in, upon or about any private property in the city, which does or could endanger life or limb, damage or depreciate the value of property, real or personal, or annoy or disturb the owners of property in or about the area where such nuisance exists, shall be deemed guilty of a misdemeanor.
- (b) Sections 9.1000.000 through 9.1000.030 are meant to be regulations applicable to the abatement of nuisances defined in subsection (c) of this section. If the terms of sections 9.1000.000 through 9.1000.030 conflict with any other provisions of the Code of Ordinances of the City of Gladstone regarding the abatement of nuisances, sections 9.1000.000 through 9.1000.030 shall control.
- (c) Any condition on any lot or land that has the presence of debris of any kind including, but not limited to, weed cuttings, cut and fallen trees and shrubs, overgrown vegetation and noxious weeds which are seven inches or more in height, rubbish and trash, lumber not piled or stacked seven inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks as more fully described in section 9.1000.000(a), discarded household furniture or appliances, broken furniture, any flammable material which may endanger public safety or any material which is unhealthy or unsafe, is hereby declared to be a public nuisance.

(Ord. No. 4.468, § 1, 4-22-2019)

Sec. 9.1000.010. Notice and abatement.

- (a) *Notice.* When a public nuisance as defined in section 9.1000.000(c) exists, the community development director and/or their authorized representative shall so declare and shall give written notice to the owner of the property and, if the property is not owner-occupied, to any occupant of the property by personal service or regular first-class mail. If notice cannot be given by either personal service or first-class mail then such notice may be posted on or about the premises described in the notice. Such notice shall, at a minimum:
 - (1) Declare that a public nuisance exists;
 - (2) Specifically describe each condition declared to be a public nuisance;
 - (3) Identify what action will remedy the public nuisance;
 - (4) Order the removal or the abatement of such condition within a reasonable amount of time not less than ten days, unless the public nuisance presents an immediate, specifically identified risk to the public health or safety;
 - (5) State that if the owner of the property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the community development director shall cause the condition which 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;
 - (6) State that if the owner or occupant of the property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, such owner or occupant of the property may be cited in municipal court for violating this article and shall, upon conviction in municipal court, be subjected to punishment by a fine pursuant to section 1.100.140(e)(2) of the Code of Ordinances of the City of Gladstone, Missouri;
 - (7) State, in the case of overgrown vegetation and noxious weeds, that if more than once during the same growing season a repeat violation of the same ordinance by the same person on the same property is

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reported, the city may, without further notification, have the weeds removed and the cost of the same shall be billed to the owner as provided in section 9.1000.020.

(Ord. No. 4.468, § 2, 4-22-2019)

Sec. 9.1000.020. Abatement of nuisance.

- (a) If the owner of such property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the community development director and/or their authorized representative shall cause the condition which constitutes the nuisance to be removed. If the owner, occupant, or other person with lawful possession of the premises in question refuses to allow the community development director and/or his authorized representative to enter onto such premises to abate the nuisance conditions, the city may request an administrative warrant, if such administrative warrant is required by law.
- (b) If the community development director and/or their authorized representative causes such condition to be removed or abated, the cost of such removal (which may include fees for the city's cost in administering this article) and the proof of notice to the owner of the property shall be certified 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 official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and 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 from the date the tax bill is delinquent until paid.
- (c) In the case of overgrown vegetation and noxious weeds, if more than once during the same growing season, a repeat violation of the same ordinance by the same person on the same property is reported, the city may, without further notification, have the weeds removed and the cost of the same shall be billed to the owner as provided above.

(Ord. No. 4.468, § 3, 4-22-2019)

Sec. 9.1000.030. Penalty.

If the owner or occupant of property fails to begin removing the nuisance within the time allowed, or upon the failure to pursue the removal of such nuisance without unnecessary delay, such owner or occupant may be cited in municipal court for violating this article and shall, upon conviction in municipal court, be subject to punishment by a fine pursuant to section 1.100.140(e)(2) of the Code of Ordinances of the City of Gladstone, Missouri. An owner or occupant cited in municipal court must have first received the written notice described in section 2.110.020. All penalties are in addition to assessed costs of removal.

(Ord. No. 4.468, § 4, 4-22-2019)

CHAPTER 1100. SITE AND DESIGN STANDARDS

Sec. 9.1100.010. Purpose.

The purpose of this chapter is to provide general site and building design standards to protect the public health and welfare, increase and preserve residential and commercially developed land values, provide an

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aesthetically compatible and pleasing urban environment, and solidify the city's position as a livable suburban community within the Kansas City metropolitan area.

(Ord. No. 3.947, § 2(34.1100.010), 2-14-2005)

Sec. 9.1100.020. Applicability.

The provisions of this chapter apply to all real property within the corporate limits of the city.

(Ord. No. 3.947, § 2(34.1100.020), 2-14-2005)

Sec. 9.1100.030. Objectives.

Site and building design standards are intended to serve and achieve the following objectives:

- (1) Promote the public health, safety, and general welfare in an era of limited vacant developable property and the need for quality redevelopment;
- (2) Encourage more efficient and aesthetic provision of public utilities;
- (3) Encourage the incorporation of modern design principles in land development, site improvement, and building construction;
- (4) Encourage the combination and coordination of architectural styles, building forms, and relationships;
- (5) Ensure a quality of overall design and construction commensurate with other developments within the city; and
- (6) Provide landowners, developers, and builders reasonable assurance of approval before expenditure of complete design monies, while providing city officials with assurance that the project will retain the character envisioned at the time of approval.

(Ord. No. 3.947, § 2(34.1100.030), 2-14-2005)

Sec. 9.1100.040. Design standards.

- (a) *Residential site and building design standards.* One- and two-family dwellings and accessory structures shall utilize construction material meeting or exceeding the architectural compatibility standards of other one- and two-family dwellings within the surrounding area. The following aspects of design and construction shall be considered:

- (1) Roof pitch and materials;
- (2) Exterior treatment and materials;
- (3) Percentage of window openings; and
- (4) Landscaping.

- (b) *Multifamily dwelling, semipublic, commercial, and industrial site and building design standards.*

- (1) *Generally.* All multifamily dwellings and semipublic, public, commercial and industrial buildings shall utilize design principles and construction materials meeting or exceeding the architectural compatibility standards of other developed properties within the surrounding area. The following aspects of design and construction shall be considered:

- a. Roof pitch and materials;

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- b. Exterior treatment and materials;
 - c. Percentage of window openings;
 - d. Landscaping; and
 - e. Signage.

(2) *Minimum design requirements.* The minimum design requirements for all multifamily dwellings and semipublic, public, commercial and industrial buildings shall be as follows:

- a. The maximum pitch of all roofs shall be determined by the average roof pitch of structures within 185 feet (56,388 mm). At no time shall the maximum pitch of roofs be required to be less than 4:12.
- b. Street frontage elevations of all buildings or structures shall be constructed of or faced with approximately 80 percent standard brick, natural stone, stucco, EFIS or other suitable similar materials. A minimum of 20 percent of the structure shall be constructed of or faced with a contrasting material consisting of standard brick, natural stone, tile or other suitable accent material. Non-street-frontage elevations shall be faced with stucco, EFIS or similar exterior treatment, or other suitable materials approved by the city. Other suitable materials approved by the city shall meet the intent of this Code and the Comprehensive Plan.
- c. Street frontage elevations of all buildings shall contain a minimum of 30 percent windows or other generally clear openings.
- d. Colors of all buildings, structures and appurtenances shall be compatible with developed properties within 185 feet (56,388 mm). In the event no consistent pattern or trend of color compatibility emerges after reviewing area properties, the following color systems shall be used:
 - 1. The principal color of all structures shall be generally light earth tones, grays, and blue-grays or combinations thereof;
 - 2. Two accent colors are allowed and shall not exceed five feet (1,524 mm) of total coverage; and
 - 3. For any sign, including frame and poles, there shall be no more than three colors and no more than two lettering styles. At least one color in each sign shall match the predominant colors in the building.

(Ord. No. 3.947, § 2(34.1100.040), 2-14-2005)

Sec. 9.1100.050. Information required.

Upon application for a building permit, planned development, zoning change or other applicable action, the applicant shall provide the following information:

- (1) Color photographs of surrounding structures within 185 feet (56,388 mm) of sufficient detail to determine compliance with these provisions; and
- (2) Elevation drawings or rendering of sufficient detail to determine compliance with these provisions.

(Ord. No. 3.947, § 2(34.1100.050), 2-14-2005)

Sec. 9.1100.060. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to be in conflict with or in violation of any of the provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 3.947, § 2(34.1100.060), 2-14-2005)

CHAPTER 1200. COMMUNITY FORESTRY PLAN⁷⁰

⁷⁰Cross reference(s)—Weeds and other rank vegetation, § 2.110.030Cross reference(s)— et seq.; native plantings, § 9.1900.010Cross reference(s)— et seq.

Sec. 9.1200.010. General provisions.

- (a) *Scope.* The provisions of this chapter shall apply to the planting, maintenance, and removal of trees, shrubs and other plants.
- (b) *Intent.* It is the purpose of this chapter to promote and protect the public health, safety, and general welfare by providing for the development and implementation of a community forestry plan to address the planting, maintenance, and removal of trees, shrubs and other plants in order to promote, maintain and improve the urban forest resource of the city.

(Ord. No. 3.947, § 2(34.1200.010), 2-14-2005)

Sec. 9.1200.020. Applicability.

This chapter provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks and public places of the city, and over trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

(Ord. No. 3.947, § 2(34.1200.020), 2-14-2005)

Sec. 9.1200.030. 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. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building official means the official who is charged with the administration and enforcement of this chapter, or a duly authorized representative.

Enclosed area means any area which is inaccessible to the public view.

Exterior property means the open space on the premises and on adjoining property under the control of operators of the premises.

Imminent danger means a condition which could cause serious or life threatening injury or death at any time.

Lot line means a line dividing one lot from another, or from a street or any public place.

Occupancy means the purpose for which a building or portion thereof is utilized or occupied.

Occupant means any individual living or sleeping in a building, or having possessions of a space within a building.

Owner means any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Park trees means trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the city, or to which the public has free access as a park.

Person means a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

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Premises means a lot, plot or parcel of land, including any structures thereon.

Property. See "Premises."

Street trees means trees, shrubs, bushes and all other woody vegetation on public land and right-of-way on either side of all streets, avenues or ways within the city.

Structure means that which is built or constructed or a portion thereof.

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Tree topping means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Yard means an open space on the same lot with a structure.

(Ord. No. 3.947, § 2(34.1200.030), 2-14-2005)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.1200.040. Duties of parks and recreation advisory board.

It shall be the responsibility of the parks and recreation advisory board to study, investigate, counsel and develop and/or update annually, and administer, a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the city council and upon its acceptance and approval shall constitute the official community forestry plan for the city. The parks and recreation advisory board, when requested by the city council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

(Ord. No. 3.947, § 2(34.1200.040), 2-14-2005)

Sec. 9.1200.050. Street tree species to be planted.

Only desirable, long-lived trees of good appearance, beauty, adaptability and generally free from injurious insects or disease shall be planted in public sites. The parks and recreation advisory board shall establish a list of official tree species acceptable for planting, divided into three categories of trees based on average height of each tree at maturity, those categories being small, medium and large trees. No species other than those included in this list may be planted as street trees without written permission of the parks and recreation advisory board.

(Ord. No. 3.947, § 2(34.1200.050), 2-14-2005)

Sec. 9.1200.060. Spacing of street trees.

The spacing of street trees will be in accordance with the three species size classes as referred to in section 9.1200.050, and no trees may be planted closer together than the following: small trees, 30 feet (9,144 mm); medium trees, 40 feet (12,190 mm); and large trees, 50 feet (15,240 mm); except in special plantings designed by a landscape architect and approved on a case-by-case basis by the parks and recreation advisory board.

(Ord. No. 3.947, § 2(34.1200.060), 2-14-2005)

Sec. 9.1200.070. Distance of trees from curb and sidewalk.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes as referred to in section 9.1200.050, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet (610 mm); medium trees, three feet (914 mm), and large trees, four feet (1,219 mm).

(Ord. No. 3.947, § 2(34.1200.070), 2-14-2005)

Sec. 9.1200.080. Distance of trees from street corners and fire hydrants.

No street tree shall be planted closer than 35 feet (10,668 mm) of any street corner, measured from the point of nearest intersection curbs or curblines. No street tree shall be planted within ten feet (3,048 mm) of any fire hydrant.

(Ord. No. 3.947, § 2(34.1200.080), 2-14-2005)

Sec. 9.1200.090. Utilities.

No street tree other than those species listed as small trees in the adopted list of street trees may be planted under or within ten lateral feet of any overhead utility wire.

(Ord. No. 3.947, § 2(34.1200.090), 2-14-2005)

Sec. 9.1200.100. Public tree care.

- (a) *Public grounds.* The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the public rights-of-way or boundaries of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- (b) *Unsafe condition.* 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 sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with sections 9.1200.060—9.1200.080.

(Ord. No. 3.947, § 2(34.1200.100), 2-14-2005)

Sec. 9.1200.110. Duty of abutting property owners to maintain vegetation in right-of-way.

Property owners abutting rights-of-way shall be responsible for maintaining trees, shrubs, and other woody vegetation within such rights-of-way in a manner which promotes safe and healthy plants and which protects the health, safety, and welfare of the public. Said property owners shall not allow such plants to hinder or obstruct the rights-of-way, interfere with traffic on adjacent streets or alleys, or create a nuisance, and shall prune the branches and remove all dead, diseased or dangerous trees, or broken or decayed limbs. Branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection. Said owners shall maintain a minimum height clearance over sidewalks of ten feet (3,048 mm). Minimum height clearance over streets shall be 13 feet (3,962 mm), except for improved thoroughfares and designated truck routes which shall be 14 feet (4,267 mm).

Minimum height over adjacent properties shall be ten feet (3,048 mm) or to a height which does not touch any structure or utility lines located on adjacent property.

(Ord. No. 3.947, § 2(34.1200.110), 2-14-2005)

Sec. 9.1200.120. Tree topping.

It shall be unlawful as a normal practice for any person, firm, or city department to top any street trees, park trees, or other trees on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the parks and recreation advisory board.

(Ord. No. 3.947, § 2(34.1200.120), 2-14-2005)

Sec. 9.1200.130. Dead or diseased tree removal on private property.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the city. The building official will notify in writing the owners of such trees. Removal shall be done by said owners, at their own expense, within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal and administrative fees on the owner's property tax notice.

(Ord. No. 3.947, § 2(34.1200.130), 2-14-2005)

Sec. 9.1200.140. Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Ord. No. 3.947, § 2(34.1200.140), 2-14-2005)

Sec. 9.1200.150. Interference with city.

It shall be unlawful for any person to prevent, delay or interfere with the city, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this chapter.

(Ord. No. 3.947, § 2(34.1200.150), 2-14-2005)

Sec. 9.1200.160. Enforcement by building official.

- (a) *Generally.* The city building official designated by the city manager shall have the duty to investigate complaints or information received concerning conditions that may require the removal of trees, shrubs, or other plants, and to determine whether removal is warranted under the provisions of this chapter and the policies established by the parks and recreation advisory board, to order the removal of a tree, shrub or other plant on behalf of the city.
- (b) *Notice and order.* A removal order issued by the building official shall be served upon the owner of the property where the tree, shrub or other plant to be removed is located, or to the owner of the property adjacent to the road right-of-way if the tree, shrub or other plant is to be removed from the right-of-way,

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together with notification that the removal will take place on a date certain not earlier than seven calendar days after the mailing of the notice and order, and further notifying the recipient of the right to appeal under section 9.1200.170. An appeal filed with the parks and recreation advisory board shall delay the removal of the subject tree, shrub or other plant until the parks and recreation advisory board can conduct its hearing and issue its decision.

- (c) *Imminent danger.* The building official may shorten the time period for notification and appeal of a removal order if, in the opinion of the building official, the tree, shrub or other plant proposed to be removed poses an immediate threat of harm to any person or property. If a determination is made that such an immediate threat is posed, then the building official shall also cause the subject tree, shrub or other plant to be barricaded and otherwise marked in order to direct members of the public away from the dangerous condition.

(Ord. No. 3.947, § 2(34.1200.160), 2-14-2005)

Sec. 9.1200.170. Appeals.

- (a) *Limitations on authority.* An application for appeal shall be based on the claim that the true intent and meaning of this chapter has been misconstrued or incorrectly interpreted. The respondent may appeal from the decision of the building official to the parks and recreation advisory board prior to the date of removal stated in the notice and order of removal issued by the building official. Such appeal shall be in writing and filed with the city clerk. The parks and recreation advisory board shall have no authority to waive requirements of this chapter.
- (b) *Duties and powers of board.* The parks and recreation advisory board shall have the following powers and duties:
- (1) To hear and decide appeals where it is alleged there is error in an order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.
 - (2) To hear and decide all matters referred to it or upon which it is required to pass under the provisions of this chapter or other ordinances of the city.
 - (3) In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, to vary or modify the application of any of the regulations or provisions of this chapter relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.

(Ord. No. 3.947, § 2(34.1200.170), 2-14-2005)

Sec. 9.1200.180. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the parks and recreation advisory board, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or

defects within a reasonable time; and, when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 3.947, § 2(34.1200.180), 2-14-2005)

CHAPTER 1300. GREASE AND OIL CONTROL

Sec. 9.1300.010. General provisions.

- (a) *Scope.* The provisions of this chapter are to protect the sanitary sewer mains from blockage and obstructions caused by the contributions and accumulation of fats, oils, greases, sand and other substances harmful or hazardous to the public sanitary sewer system from commercial or industrial businesses, particularly food preparation and serving facilities.
- (b) *Intent.* The purpose of this chapter is to provide for the maintenance of a continuing program of grease interceptors and oil separators, which will systematically and effectively prevent the discharge of fats, oils, grease, sand and other substances harmful or hazardous to the public sanitary sewer system.

(Ord. No. 3.947, § 2(34.1300.010), 2-14-2005)

Sec. 9.1300.020. Applicability.

- (a) This chapter shall apply to all buildings or premises that have facilities with fixtures and equipment with actual or potential grease-laden waste located in, but not limited to, restaurants, hotel kitchens, hospitals, school kitchens, bars, factory cafeterias and garages, service stations and car washes where automobiles are serviced, greased, repaired, washed or where gasoline is dispensed.
- (b) Exceptions are as follows: one- and two-family dwellings, multiple single-family dwellings (townhouses), dwelling units in apartments and condominiums.

(Ord. No. 3.947, § 2(34.1300.020), 2-14-2005)

Sec. 9.1300.030. Policy.

This chapter shall apply to all matters affecting or relating to grease traps, grease interceptors or oil separators. Where, in any specific case, different sections of this chapter specify different materials; methods of construction or other requirements, the most restrictive shall govern. Where this chapter conflicts with adopted codes of the city, this chapter and its sections shall govern. The city manager or the manager's designee will reasonably interpret this chapter. It is the city manager's intent to recognize the varying degrees of protection and to apply the principle that the degree of protection shall be commensurate with the degree of hazard. The consumer is responsible for preventing substances harmful or hazardous from entering the public sanitary sewer system. The cooperation of the consumers is required to implement and maintain the program to prevent substances harmful or hazardous from entering the public sanitary sewer system. If, in the judgment of the city manager, protection of the public sanitary sewer system is required through the installation of an interceptor or separator, a larger interceptor or separator, or more frequent removal of harmful or hazardous substances from an existing interceptor or separator, due notice shall be given to the consumer. The consumer shall, within 90 days of written notice by the city, comply by providing the required protection at the consumer's own expense; failure, refusal, or inability on the part of the consumer to provide such protection shall constitute grounds for discontinuing water service to the building and/or premises until such protection has been provided.

(Ord. No. 3.947, § 2(34.1300.030), 2-14-2005)

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(Supp. No. 9)

Sec. 9.1300.040. 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. Where terms are not defined in this chapter and are defined in the plumbing code, such terms shall have the meaning ascribed to them as in the plumbing code. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Accepted engineering practice means that which conforms to accepted principles, tests or standards of nationally recognized technical or scientific authorities.

Access (to) means that which enables a fixture, appliance or equipment to be reached by ready access or by a means that first requires the removal or movement of a panel, door or similar obstruction (see "Ready access").

Air break (drainage system) means a piping arrangement in which a drain from a fixture, appliance or device discharges indirectly into another fixture, receptacle or interceptor at a point below the flood-level rim.

Approved means approved by the building official or other authority having jurisdiction.

Backflow (drainage) means a reversal of flow in the drainage system.

Batch means a quantity of wastewater physically separated from all other quantities of wastewater for the purpose of treatment and/or discharge.

Biological oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of matter under standard laboratory conditions in five days at 20 degrees Celsius, expressed in milligrams per liter (mg/l).

Building means any structure occupied or intended for supporting or sheltering any occupancy.

Building drain means the part of the lowest piping of a drainage system that receives the discharge from soil, waste and other drainage pipes inside and that extends 30 inches (762 mm) beyond the walls of the building and conveys the drainage to the building sewer.

- (1) *Combined*. A building drain that conveys both sewage and stormwater or other drainage.
- (2) *Sanitary*. A building drain that conveys sewage only.
- (3) *Storm*. A building drain that conveys stormwater or other drainage, but not sewage.

Building official means the official who is charged with the administration and enforcement of this chapter, or any duly authorized representative.

Building sewer means that part of the drainage system that extends from the end of the building drain and conveys the discharge to a public sewer, private sewer, individual sewage disposal system or other point of disposal.

- (1) *Combined*. A building sewer that conveys both sewage and stormwater or other drainage.
- (2) *Sanitary*. A building sewer that conveys sewage only.
- (3) *Storm*. A building sewer that conveys stormwater or other drainage, but not sewage.

Building subdrain means that portion of a drainage system that does not drain by gravity into the building sewer.

Chemical oxygen demand (COD) means a measure of the oxygen-consuming capacity of inorganic matter present in water or wastewater. It is expressed as the amount of oxygen consumed by a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand (BOD).

Cleanout means an access opening in the drainage system utilized for the removal of obstructions.

Code means these regulations, subsequent amendments thereto, or any emergency rule or regulation that the administrative authority having jurisdiction has lawfully adopted.

Code of Federal Regulations (CFR) means regulations as issued by the United States government. References to sections of CFR shall be in accordance with the latest revisions unless specifically stated otherwise.

Code of State Regulations (CSR) means regulations as issued by the United States government. References to sections of CSR shall be in accordance with the latest revisions unless specifically stated otherwise.

Construction documents means all of the written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of the project necessary for obtaining a building permit. The construction drawings shall be drawn to an appropriate scale.

Consumer means the owner or person in control of any premises supplied by or in any manner connected to the public sanitary sewer system of the city.

Commercial and industrial wastes means the waterborne wastes from commercial and/or industrial establishments as distinct from sanitary wastewater

Composite sample means a sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

Customer means any person who has service to a public sanitary sewer system.

Customer's authorized representative means a person in control of any premises serviced by or in any manner connected to the public sanitary sewer system of the city.

Customer sanitary sewer system means all piping, fixtures and appurtenances, including auxiliary sanitary sewer systems, used by a customer to convey sewage on their premises.

Daily maximum means the maximum flow rate or maximum average concentration of a particular pollutant which may be discharged in a day.

Day means a period of normal operation not to exceed 24 hours.

Drain means any pipe that carries wastewater or water-borne wastes in a building drainage system.

Drainage system means piping within public or private premises that conveys sewage, rainwater, or other liquid wastes to a point of disposal. A drainage system does not include the mains of a public sewer system or a private or public sewage treatment or disposal plant.

- (1) *Building gravity*. A drainage system that drains by gravity into the building sewer.
- (2) *Sanitary*. A drainage system that carries sewage and excludes stormwater, surface water and groundwater.
- (3) *Storm*. A drainage system that carries rainwater, surface water, condensate, cooling water or similar liquid wastes.

Effluent means the "end of process" liquid wastes from an industrial process, which ultimately are discharged.

Emergency floor drain means a floor drain that does not receive the discharge of any drain or indirect waste pipe, and that protects against damage from accidental spills, fixture overflows and leakage.

Environmental Protection Agency (EPA) means the United States Environmental Protection Agency.

Essentially nontoxic transfer fluids means fluids having a Gosselin rating of 1, including propylene glycol; mineral oil; polydimethylsiloxane; hydrochlorofluorocarbon, chlorofluorocarbon and hydrofluorocarbon refrigerants; and FDA-approved boiler water additive for steam boilers.

Essentially toxic transfer fluids means soil, waste or gray water and fluids having a Gosselin rating of 2 or more, including ethylene glycol, hydrocarbon oils, ammonia refrigerants and hydrazine.

Existing installations means any plumbing system regulated by this chapter that was legally installed prior to the effective date of the ordinance from which this chapter is derived, or for which a permit to install has been issued.

Existing nonconforming installation means any plumbing system regulated by this chapter that was installed prior to the effective date of the ordinance from which this chapter is derived, or for which a permit to install has been issued, but does not meet the requirements of this chapter.

Fats means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."

Fixture. See "Plumbing fixture."

Fixture fitting (waste fitting) means a combination of components that conveys the sanitary waste from the outlet of a fixture to the connection to the sanitary drainage system.

Flood zones (A zone) means areas that have been determined to be prone to flooding but not subject to high velocity waters or wave action.

Garbage means solid food wastes from the preparation, cooking and disposing of food, together with incidental admixtures, and from the handling, storage and sale of produce.

Grab sample means a sample, which is taken on a one-time basis without regard to the flow rate of the sampled stream and without consideration of time.

Grease or greases means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time.

Grease interceptor means a passive interceptor having a rated flow exceeding 50 gpm (189 L/m) and that is located outside the building.

Grease-laden waste means effluent discharge that is produced from food processing, food preparation or other sources where grease, fats, and oils enter automatic dishwater pre-rinse stations, sinks or other appurtenances.

Grease trap means a passive interceptor having a rated flow of 50 gpm (189 L/m) or less and that is located inside the building.

Indirect waste pipe means a waste pipe that does not connect directly with the drainage system, but that discharges into the drainage system through an air break or air gap into a trap, fixture, receptor or interceptor.

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, independent of the discharge rate and duration of the sampling event.

Interceptor means a device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or wastes to discharge into the drainage system by gravity.

Main means the principal pipe artery to which branches are connected.

Medical waste means isolation wastes, infectious agents, human blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis waste or any other materials or items commonly used or associated with medical care.

Minimum design capability means the design features of a grease interceptor and its ability or volume required to effectively intercept and retain greases from grease-laden wastewaters discharged to the public sanitary sewer.

Nonpotable water means water not safe for drinking, personal or culinary utilization.

Normal sewage means wastewater which contains not over 250 milligrams per liter (mg/l) of suspended solids, not over 250 milligrams per liter (mg/l) of BOD by weight, and not over 30 milligrams per liter (mg/l) of oil and grease, and which does not contain any of the materials or substances listed in section 9.1300.080 in excess of allowable amounts specified in said section.

Nuisance means public nuisances as known in common law or in equity jurisprudence; whatever is dangerous to human life or detrimental to health; whatever structure or premises is not sufficiently ventilated, sewered, drained, cleaned or lighted, with respect to its intended occupancy; and whatever renders the air, or human food, drink, water supply unwholesome.

Occupancy means the purpose for which a building or portion thereof is utilized or occupied.

Oils means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."

pH means the logarithm to the base 10 of the reciprocal of the number of gram ionic hydrogen equivalents per liter of solution.

Plumbing appurtenance means a manufactured device, prefabricated assembly or an on-the-job assembly of component parts that is an adjunct to the basic piping system and plumbing fixtures. An appurtenance demands no additional water supply and does not add any discharge load to fixture or to the drainage system.

Plumbing code means the International Plumbing Code promulgated by the International Code Council, Inc., as adopted by this jurisdiction.

Plumbing system means includes the water supply and distribution pipes; plumbing fixtures and traps; water-treating or water-using equipment; soil, waste and vent pipes; and sanitary and storm sewers and building drains, in addition to their respective connections, devices and appurtenances within a structure or premises.

Potable water means water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Public Health Service Drinking Water Standards or the regulations of the public health authority having jurisdiction.

Private sewage disposal system means any privately owned or operated cesspool, grease trap, grease interceptor, privy, privy vault, septic tank or an other facility or system for the disposal of sewage which is not a part of the city public sanitary sewer system.

Properly shredded garbage means garbage that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewers, with no particle greater than one-half inch (12.7 mm) in any dimension.

Public sewer means all or any portion of the city sanitary sewer system.

Publicly owned treatment works (POTW) means a "treatment works" as defined by section 212 of the Act (33 USC 1292), which is owned by the city. This definition includes the sewer system and any other devices or systems

used in the collection, storage, treatment, testing, monitoring, recycling and reclamation of wastewater or industrial wastes and any conveyances which convey wastewater to a treatment plant.

Registered design professional means an individual who is registered or licensed to practice professional architecture or engineering as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.

Separator. See "Interceptor."

Service lateral. See "Building sewer."

Sewage means any liquid waste containing animal or vegetable matter in suspension or solution, including liquids containing chemicals in solution.

Sewer.

(1) *Building sewer*. See "Building sewer."

(2) *Public sewer*. See "Public sewer."

(3) *Sanitary sewer* means a sewer that carries sewage and excludes stormwater, surface water and groundwater.

(4) *Storm sewer* means a sewer that conveys rainwater, surface water, condensate, cooling water or similar liquid wastes.

Soil pipe means a pipe that conveys sewage containing fecal matter to the building drain or building sewer.

Standard laboratory methods means sampling and analytical techniques promulgated by the EPA in 40 CFR 136.

State means the State of Missouri, including its agencies, and specifically the department of natural resources (DNR).

Storm drain. See "Drainage system, storm."

Stormwater means any flow resulting from any form of natural precipitation including snowmelt.

Suspended solids (nonfilterable residue) means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering.

Third-party certification agency means an approved agency operating a product or material certification system that incorporates initial product testing, assessment and surveillance of a manufacturer's quality control system.

Third-party certified means certification obtained by the manufacturer indicating that the function and performance characteristics of a product or material have been determined by testing and ongoing surveillance by an approved third-party certification agency. Assertion of certification is in the form of identification in accordance with the requirements of the third-party certification agency.

Third-party tested means a procedure by which an approved testing laboratory provides documentation that a product, material or system conforms to specified requirements.

User means any person, including those located outside the jurisdictional limits of the city, who contributes, causes or permits the contribution or discharge of waste into the POTW, including persons who contribute such waste from mobile sources, such as those who discharge hauled waste.

Waste means the discharge from any fixture, appliance, area or appurtenance that does not contain fecal matter.

(Ord. No. 3.947, § 2(34.1300.040), 2-14-2005)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.1300.050. Grease traps and grease interceptors.

- (a) *Standards.* Grease traps and grease interceptors shall comply with this chapter and the International Plumbing Code as adopted by the city and on file with the city clerk.
- (b) *Grease traps and grease interceptors required.* A grease trap or grease interceptor shall be required to receive the drainage from fixtures and equipment with grease-laden waste located in food preparation areas, such as, but not limited to: restaurants, hotel kitchens, hospitals, school kitchens, bars, factory cafeterias, or restaurants and clubs.

(Ord. No. 3.947, § 2(34.1300.050), 2-14-2005)

Sec. 9.1300.060. Oil separators.

- (a) *Standards.* Oil separators shall comply with this chapter and the International Plumbing Code as adopted by the city and on file with the city clerk.
- (b) *Oil separator required.* Oil separators are required at, but not limited to: repair garages; gasoline stations with grease racks, grease pits or work racks; car washing facilities with engine or undercarriage cleaning capability; and factories where oily and flammable liquid wastes are produced. Oil separators shall be installed into which all oil-bearing, grease-bearing or flammable wastes shall be discharged before emptying in the building drainage system or other point of disposal.

(Ord. No. 3.947, § 2(34.1300.060), 2-14-2005)

Sec. 9.1300.070. Survey and inspection.

When it is necessary to make a survey and/or inspection to enforce the provisions of this chapter, or when the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter, the building official may enter the building or premises at all reasonable times to survey and/or inspect or to perform the duties imposed by this chapter. If such building or premises are occupied, the building official shall present credentials to the occupant and request entry. If such building or premises are unoccupied, the building official shall make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

(Ord. No. 3.947, § 2(34.1300.070), 2-14-2005)

Sec. 9.1300.080. Materials prohibited to be discharged into public sewer.

No person, commercial business or industrial business shall discharge or cause to be discharged any prohibited wastes or materials as noted in the City of Gladstone Sewer Use Ordinance.

(Ord. No. 3.947, § 2(34.1300.080), 2-14-2005)

Sec. 9.1300.090. Grease trap and interceptor requirements.

- (a) *Approval of grease traps and interceptors.* All grease traps and interceptors shall be approved by the community development department prior to installation. This is to ensure that the grease trap or

interceptor meets sizing requirements and construction standards and conforms to plumbing codes. The following information must be submitted to the building official to obtain approval:

- (1) Proposed trap or interceptor location;
 - (2) Proposed size of grease trap or interceptor;
 - (3) Detailed drawings of trap or interceptor and piping; and
 - (4) Number and type of fixtures proposed to be attached.
- (b) *Proper sizing.* In order to perform correctly, grease traps and interceptors must be adequately sized. All grease traps and interceptors shall have a grease retention capacity indicated in the International Plumbing Code, as adopted by the city.
- (c) *Maintenance.* Grease traps and interceptors shall be cleaned as required, but at intervals not longer than 30 days, at the user's expense. Grease traps and interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle into the grease trap or interceptor and thereby reduce the effective volume. The use of biological additives as a grease degradation agent is conditionally permissible, upon written approval of the building official. Any establishment using this method of grease abatement shall maintain the trap or interceptor in such a manner that abatement from the trap's outlet is consistently achieved.
- (d) *Recordkeeping.* The user shall maintain a written record of grease trap and interceptor maintenance for five years. All such records shall be available to the city at all times. Maintenance records shall contain the following information:
- (1) Date of maintenance;
 - (2) Person performing maintenance; and
 - (3) Manager's signature or initials for verification.

(Ord. No. 3.947, § 2(34.1300.090), 2-14-2005)

Sec. 9.1300.100. Oil separator requirements.

- (a) *Approval of oil separators.* All oil separators shall be approved by the community development department prior to installation. This is to ensure that the oil separator meets sizing requirements and construction standards and conforms to plumbing codes. The following information must be submitted to the building official to obtain approval:
- (1) Proposed separator location;
 - (2) Proposed size of separator;
 - (3) Detailed drawings of separator and piping; and
 - (4) Number and type of fixtures proposed to be attached.
- (b) *Proper sizing.* In order to perform correctly, oil separators must be adequately sized. All oil separators shall be sized as indicated in the International Plumbing Code, as adopted by the city.
- (c) *Maintenance.* Oil separators shall be cleaned as required, but at intervals not longer than 30 days, at the user's expense. Oil separators shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle into the grease trap or interceptor and thereby reduce the effective volume.

(d) *Recordkeeping.* The user shall maintain a written record of oil separator maintenance for five years. All such records shall be available to the city at all times. Maintenance records shall contain the following information:

- (1) Date of maintenance;
- (2) Person performing maintenance; and
- (3) Manager's signature or initials for verification.

(Ord. No. 3.947, § 2(34.1300.100), 2-14-2005)

Sec. 9.1300.110. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, move, remove, or demolish any grease trap, grease interceptor or oil separator regulated by this chapter, or cause same to be done, in conflict with or in violation of any provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 3.947, § 2(34.1300.110), 2-14-2005)

CHAPTER 1400. GARAGE SALES

Sec. 9.1400.010. General provisions.

- (a) *Scope.* The provisions of this chapter shall apply to garage sales as defined herein.
- (b) *Intent.* It is the purpose of this chapter to promote minimum requirements to safeguard public health, safety, and general welfare by regulating and controlling the number of, length of, aesthetics of, and signage for garage sales and similar type sales.

(Ord. No. 3.947, § 2(34.1400.010), 2-14-2005)

Sec. 9.1400.020. Applicability.

This chapter shall apply to all buildings, premises and residential premises within the city limits.

(Ord. No. 3.947, § 2(34.1400.020), 2-14-2005)

Sec. 9.1400.030. 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. Where terms are not defined

through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building official means the official who is charged with the administration and enforcement of this chapter, or a duly authorized representative.

Garage sale means general sales open to the public, conducted from or on a residential premises in a residential zone, as defined by the zoning ordinance as adopted by the city (see title VII), for the purpose of disposing of any personal property, except motor vehicles, including but not limited to sales entitled garage, lawn, yard, attic, porch, room, backyard, patio, flea market, rummage, moving, estate or auction.

Occupancy means the purpose for which a building or portion thereof is utilized or occupied.

Occupant means any individual living or sleeping in a building, or having possession of a space within a building.

Operator means any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

Owner means any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Person means a natural person, heir, executor, administrator or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Personal property means property which is owned, utilized and maintained by any tenant of a residential premises, and acquired in the normal course of living in or maintaining a residence, but not including motor vehicles or merchandise which was purchased for resale or obtained on consignment.

Premises means a lot, plot or parcel of land, including any structures thereon.

Property. See "Premises."

Residential premises means a lot, parcel or building that has an occupancy classification as a one- and two-family dwelling or townhouse.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

(Ord. No. 3.947, § 2(34.1400.030), 2-14-2005)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.1400.040. Permit required; application.

- (a) *Required.* A garage sale shall not be conducted unless the tenant desiring to conduct such sale has obtained a garage sale permit. Tenants of more than one residential premises may join in obtaining a permit for a garage sale to be conducted on one residential premises; however, if tenants of more than one residential premises join together to conduct concurrent garage sales, then each tenant shall obtain a garage sale permit for each residential premises.

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- (b) *Application for permit.* To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the community development department for that purpose. Such application shall:
- (1) Indicate the full name and address of each applicant;
 - (2) Indicate the address where the garage sale will be held;
 - (3) Indicate the dates of the garage sale;
 - (4) Give an affirmative statement that the property being sold is personal items of the applicant and in no way were acquired or assigned to the applicant for the purpose of resale; and
 - (5) Give an affirmative statement that the applicant has read and understands the Gladstone Garage Sale Ordinance (this chapter) and agrees to abide by the ordinance in conjunction with the permitted garage sale.

(Ord. No. 3.947, § 2(34.1400.040), 2-14-2005)

Sec. 9.1400.050. Permit conditions.

- (a) *Number of sales.*
- (1) A residential premises shall not conduct more than two garage sales per calendar year.
 - (2) Exception: A third garage sale shall be permitted to a residential premises upon satisfactory proof of a bona fide change of ownership.
- (b) *Hours of operation.* All garage sales shall be conducted during the daylight hours.
- (c) *Length of operation.* All garage sales shall not last longer than three consecutive days.
- (d) *Inclement weather.* If a garage sale is not conducted on the day for which the permit was issued or was terminated due to inclement weather, not allowing at least 50 percent of the sale, the tenant may apply for another permit. The permit holder shall apply for another permit and supply an affidavit that the original garage sale was not conducted or was terminated due to inclement weather. The permit holder shall apply for the permit within 30 days of the original sale.
- (e) *Display of permit.* Garage sale permits shall be posted on the residential premises during the sale, in a conspicuous place visible to the public.

(Ord. No. 3.947, § 2(34.1400.050), 2-14-2005)

Sec. 9.1400.060. Merchandise for sale.

- (a) *Display of merchandise.* Personal property offered for sale shall be displayed within the building, garage, carport, yard, or driveway, or combination thereof. Personal property for sale shall not be displayed in any public street or right-of-way.
- (b) *Type of merchandise.* Personal property shall be allowed to be sold at garage sales. Merchandise purchased for resale, on consignment, or not defined as personal property as defined herein shall not be permitted for sale.

(Ord. No. 3.947, § 2(34.1400.060), 2-14-2005)

Sec. 9.1400.070. Advertising.

- (a) *Signs permitted.* Only the following specified signs may be displayed in relation to a pending garage sale:
- (1) *Maximum number of signs.* A maximum of six signs may be displayed per garage sale.
 - (2) *Size of signs.*
 - a. Garage sale signs shall not be more than four square feet in size per sign, either single or double faced.
 - b. Exception: Schools, churches, and other nonprofit organizations, as approved by the building official, may have one sign of not more than four feet by eight feet or a cumulative total of 64 square feet, either single or double faced, shall be permitted to be displayed on the property of the nonprofit organization where the garage sale is being conducted.
 - (3) *Placement of signs.* Signs shall be located a minimum of ten feet back from the edge of pavement. Any signs that are located on private property shall require the permission of the property owner or occupant.
- (b) *Time limitation.* Signs shall not be erected or displayed sooner than one day before the date of the sale. All signs shall be removed at the close of the garage sale activities.
- (c) *Signs prohibited; removal of signs in violation.*
- (1) Signs shall not be erected, placed, posted, or otherwise displayed on any street sign or post, traffic sign or post, utility poles, streetlight poles, traffic signal poles or equipment boxes, or other public property, or within rights-of-way except as allowed by subsection (a)(3) of this section. Pennant type flags or other attention-attracting devices are prohibited.
 - (2) Any signs displayed in violation of this chapter shall be removed at the owner's expense and be subject to disposal.

(Ord. No. 3.947, § 2(34.1400.070), 2-14-2005)

Sec. 9.1400.080. Public nuisances.

The person to which a garage sale permit is issued and the owner, tenant and other responsible parties of the residential premises of the garage sale shall be responsible for the order and decorum of the residential premises during the garage sale. The responsible person or parties shall not permit loud boisterous conduct at said residential premises or allow vehicles to impede the passage of traffic on the streets in the area of said residential premises.

(Ord. No. 3.947, § 2(34.1400.080), 2-14-2005)

Sec. 9.1400.090. Inspections.

When it is necessary to make an inspection to enforce the provisions of this chapter, or when the building official has reasonable cause to believe that there exists in a building or upon a residential premises a condition which is contrary to or in violation of this chapter, the building official may enter the building or residential premises at a reasonable time to inspect or to perform the duties imposed by this chapter. If such building or premises is occupied, the building official shall present credentials to the occupant and request entry. If such building or premises are unoccupied, the building official shall make a reasonable effort to locate the owner or

other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

(Ord. No. 3.947, § 2(34.1400.090), 2-14-2005)

Sec. 9.1400.100. Revocation or refusal of permit.

Any permit issued under this chapter may be revoked or any application for issuance of a permit may be refused if the application submitted by the applicant or permit holder contains any false, fraudulent or misleading information.

(Ord. No. 3.947, § 2(34.1400.100), 2-14-2005)

Sec. 9.1400.110. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm, or corporation to conduct, maintain or operate a garage sale regulated by this chapter, or cause same to be done, in conflict with or in violation of any provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 3.947, § 2(34.1400.110), 2-14-2005)

CHAPTER 1500. SATELLITE RECEIVING ANTENNAS

Sec. 9.1500.010. General provisions.

- (a) *Scope.* The provisions of this chapter shall apply to the construction, installation, reinstallation, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, and removal of satellite receiving antennas.
- (b) *Intent.* The purpose of this chapter is to provide minimum requirements to safeguard the public health, safety, and general welfare by regulating and controlling the location, aesthetics, and size of satellite receiving antennas.

(Ord. No. 3.947, § 2(34.1500.010), 2-14-2005)

Sec. 9.1500.020. Applicability.

This chapter shall apply to all buildings or premises within the city limits.

(Ord. No. 3.947, § 2(34.1500.020), 2-14-2005)

Sec. 9.1500.030. 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. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building official means the officer or other designated authority charged with the administration and enforcement of this chapter, or a duly authorized representative.

Occupancy means the purpose for which a building, or part thereof, is used or intended to be used.

Occupant means any individual living or sleeping in a building, or having possession of a space within a building.

Owner means any person, agent, firm, or corporation having a legal or equitable interest in the property.

Person means a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Premises means a lot, plot or parcel of land, including any structures thereon.

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

(Ord. No. 3.947, § 2(34.1500.030), 2-14-2005)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.1500.040. Satellite receiving antenna requirements.

No satellite receiving antenna may be erected in any residential, commercial or industrial zoned premises unless the following requirements are satisfied:

- (1) There shall only be one satellite receiving antenna per residential, commercial or industrial zoned premises.
- (2) No satellite receiving antenna shall be installed forward of the front or side of any building or structure adjacent to any public street.
- (3) Satellite receiving antennas may be ground-mounted or roof-mounted as follows:
 - a. Ground-mounted antennas must be permanently mounted and may not have an overall height of 15 feet above the existing grade. A screen shall surround each satellite receiving antenna's pedestal. The screening material may consist of any combination of fencing, landscaping or plantings which effectively screen the pedestal throughout the year.
 - b. Roof-mounted antennas shall have an engineer's certification to confirm that the building or structure can support the antenna, and is screened in a manner consistent with the building's architecture so as not to be visible at ground level. The antenna shall be permanently and effectively grounded.
 - c. Exception: Satellite receiving antennas 24 inches in diameter or less do not have to meet the requirements of subsection (3)b of this section.

(Ord. No. 3.947, § 2(34.1500.040), 2-14-2005)

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Sec. 9.1500.050. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm, or corporation to install, reinstall, alter, move, enlarge, replace, repair, use and occupancy, maintain, or remove a satellite receiving antenna regulated by this chapter, or cause same to be done, in conflict with or in violation of any provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 3.947, § 2(34.1500.050), 2-14-2005)

CHAPTER 1600. SIGNS⁷¹

⁷¹Cross reference(s)—Zoning and planning, title VII.

Sec. 9.1600.010. General provisions.

- (a) *Scope.* The provisions of this chapter shall apply to all signs as defined herein.
- (b) *Intent.* It is the purpose of this chapter to promote minimum requirements to safeguard public health, safety, property, and welfare, promote the efficient transfer and communication of sign information, and preserve and protect the scenic landscaping quality by regulating and controlling the design, quality of materials, construction, location, and illumination of signs. The standards for signage under this chapter are established in recognition of the following circumstances.

(Ord. No. 3.947, § 2(34.1600.010), 2-14-2005; Ord. No. 4.105, § 1, 5-11-2009)

Sec. 9.1600.020. Applicability.

This chapter shall apply to all buildings, premises and residential premises within the city limits.

(Ord. No. 3.947, § 2(34.1600.020), 2-14-2005)

Sec. 9.1600.030. 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. Where terms are not defined in this chapter and are defined in the building code, fire code, fuel gas code, mechanical code, plumbing code, residential code, or property maintenance code such terms shall have the meanings ascribed to them as in those codes. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Attention-attracting devices means any item designed or used to promote, advertise, demonstrate, or call attention to any commercial, residential, office, retail or service business or activity.

Awning means an architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached.

Balloon means any article filled with gas or inflated with air through the use of fans, blowers or any other air or gas injecting mechanism and displayed in such a manner as to attract attention to the premises on which it is located or used for advertising.

Building line means the established by law, beyond which a building shall not extend, except as specifically provided by law.

Building official means the officer or other designated authority charged with the administration and enforcement of this chapter, or duly authorized representative.

Canopy means an architectural projection, including porticos, that provides weather protection, identity or decoration, and is supported by the building to which it is attached and at the outer end by not less than one stanchion. A canopy is comprised of a rigid structure over which a covering is attached.

Changeable copy sign means a manually, mechanically or electronically activated sign on which copy is designed to be changed. This includes readerboards, gas price signs, and theater marquees, but is not limited to them. Poster panels and painted boards are not changeable message signs.

Construction documents means written, graphic and political documents prepared or assembled for describing the design, location, and physical characteristics of the elements of a project necessary for obtaining a permit.

Curb grade means the elevation of the top of the curb measured at the curblin at a point perpendicular to a sign.

Curblin means the line at the face of the curb most distant from the centerline of the street. In the absence of a curb, the building official shall establish the curblin.

Display surface means the area made available by the sign structure for the purpose of displaying an advertising message, illustration, or symbol.

Electronic message center means any electronically activated sign that displays text or image that change no more than once every 15 seconds. Included are signs that display an electronic image or video, which may or may not include text. This definition includes television screens, plasma screens, digital screens, flat screens, LED screens, video boards, and/or the use of changing lights to form a message and holographic displays.

Fascia means a flat horizontal member of a building having the form of a flat band or broad fillet.

Flag means a piece of fabric or other material of distinctive design that is used as a symbol and is displayed hanging free from, but not limited to, a staff, pole, or halyard to which it is attached by one edge.

- (1) *Governmental*. Legitimate city, county, state, national, United Nations, and military flags flown or displayed in their respectively correct manner. These flags are not considered a form of signage and therefore are not addressed by this chapter.
- (2) *Corporate*. A flag flown or displayed containing the design or logo of a corporation or company, or of any product and/or service provided by said company. These flags are considered signage and therefore are regulated by this chapter.

Historic buildings means buildings that are listed in or eligible for listing in the National Register of Historic Places, or designated as historic under an appropriate state or local law.

Interstate system means that portion of the national system of interstate highways located within the limits of the city, as officially designated or may be hereafter designated by the state highway and transportation commission with the approval of the Secretary of Transportation, pursuant to title 23, United States Code, as amended.

Jurisdiction means the governmental unit that has adopted this chapter under due legislative authority.

Lot means a portion or parcel of land considered as a unit.

Lot line means a line dividing one lot from another, or from a street, or any public place.

Mansard means a roof having two slopes on all sides with the lower slope steeper than the upper one.

Marquee means a permanent roofed structure attached to and supported by the building and that projects into the public right-of-way.

Owner means any person, agent, firm, or corporation having a legal or equitable interest in the property.

Permit means an official document or certificate issued by the authority having jurisdiction, which authorizes performance of a specified activity.

Person means an individual, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Premises means a lot, plot, or parcel of land, including any structures thereon.

Primary system means that portion of the highways of the state located within the limits of the city, officially designated by the state highway and transportation commission as being in the primary highway system as authorized by the constitution and laws of the state.

Projection means the distance by which a sign extends beyond the building line.

Registered design professional means an individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.

Repair means the reconstruction or renewal of any part of an existing structure for the purpose of maintenance.

Setback means the horizontal distance between the curbline and a vertical projection from that portion of the sign nearest the curb line.

Shopping center means a concentration of retail stores and service establishments in a suburban area, with generous parking space and planned to serve the community or neighborhood.

- (1) *Major*. A shopping center located on a tract of ground a minimum of five acres.
- (2) *Minor*. A shopping center located on a tract of ground less than five acres.

Sign means any medium which is used or intended to be used to attract attention to any subject matter including but not limited to advertising, instructional, direction, or announcement purposes.

- (1) *Abandoned*. A sign that advertises an activity, business, product, or service no longer conducted.
- (2) *Alteration*. The replacement, enlargement, reduction, reshaping, or adding to an existing sign, frame, pole, brackets, or any supporting member.
- (3) *Animated*. Any sign which uses movement or change of lighting to depict action or to create a special effect; this includes electronic message centers.
- (4) *Area*. That portion of the smallest rectangle which completely encloses the display surfaces of the sign.
- (5) *Banner*. A sign made of fabric or any other nonrigid material with no enclosing framework.
- (6) *Billboard*. All signs which advertise a product or business not located on the same lot or premises as the sign. This includes but is not limited to billboards, junior poster panels (billboards less than 100 square feet in surface area), and freestanding signs on separate parcels. Real estate, subdivision and subdivision real estate signs are excluded from this definition.
- (7) *Construction*. Any freestanding sign used only during the construction of a new building, reconstruction, or addition to an existing building to identify the project, owner, tenant, agent, architect, engineer, contractor, and financing institution of the project.
- (8) *Directional*. A ground or wall sign displaying traffic, parking, emergency vehicle, height clearance, or similar directional information. A directional sign shall not include any advertising message.
- (9) *Flashing*. A sign that contains a flashing, intermittent, or sequential flashing or blinking light source but does not include time and temperature signs, animated signs, or electronic message center signs.
- (10) *Freestanding*. Any sign placed upon or fixed in the ground, self-supporting, not attached to any building.
- (11) *Ground*. A freestanding or monument sign placed at or near ground level not exceeding seven feet in height including all supporting structures.
- (12) *Incidental*. Any sign which provides information or guides or directs pedestrian or vehicular traffic, which may be mounted on the ground, on a building, or in connection with a detached sign.

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- (13) *Maintenance*. The normal care and minor repair that is necessary to retain a safe, attractive and finished structure, frame, pole, brackets, or surface.
 - (14) *Marquee*. Any sign attached to or part of a marquee or permanent sidewalk canopy of a building and not extending above the roofline.
 - (15) *Obsolete*. See "Abandoned."
 - (16) *Off-premises*. Any sign identifying, announcing or advertising real estate, products, services, or businesses not located on the same lot or premises as the sign.
 - (17) *On-premises*. A sign identifying, announcing or advertising real estate, products, services, or businesses located on the same lot or premises as the sign.
 - (18) *Open house*. Any off-premises ground sign announcing an open house for inspection of real estate.
 - (19) *Permanent*. Any sign or advertising device designed and erected to be maintained as a permanent structure in accordance with the requirements of this chapter.
 - (20) *Pole*. A freestanding sign wholly supported by upright poles or posts, mounted in the ground, with at least eight feet of clearance above the curb grade.
 - (21) *Political*. Any sign promoting, supporting, or opposing any candidate, office, issue, or proposition to be voted upon at any public election.
 - (22) *Real estate*. Any sign advertising the sale, lease, or rental of the premises upon which it is located. Real estate signs in zones C-O through M-1 may utilize a tri-legged sign structure to support two sign faces in a "V" fashion without the two faces of the sign being back-to-back. A maximum distance of four feet between any of the legs of the sign structure is allowed.
 - (23) *Refacing*. Changing or replacing the word, numerals, characters, or materials of the sign to serve a different establishment or business or create a different message on the same sign face.
 - (24) *Roof*. A sign which extends above a roof or parapet wall of a building and which is wholly or partially supported by said roof.
 - (25) *Structure*. The supports, uprights, bracing, or framework of any sign structure, be it single faced, double faced, or any framing otherwise supporting a sign.
 - (26) *Subdivision development*. Any on-premises real estate sign adverting an entire real estate development during its construction.
 - (27) *Subdivision entrance*. Any ground sign identifying only the name of an entire residential plat.
 - (28) *Temporary*. Any sign which is not permanently attached to any structure, building, motor vehicle, or the ground, or is portable, intended for a limited display period covering a special event, and is designed and constructed to be movable from one location to another.
 - (29) *Wall*. Any sign attached to, erected against, or painted on the exterior walls, fascia, mansards, or sides of a building or structure.

Structure means that which is built or constructed.

Wall means a vertical element with a horizontal length to thickness ratio greater than three, used to enclose space. The term "parapet" means the part of any wall entirely above the roofline.

Yard means an open space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this chapter, on the lot on which a building is situated.

(Ord. No. 3.947, § 2(34.1600.030), 2-14-2005; Ord. No. 4.105, § 2, 5-11-2009)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.1600.040. Permit.

- (a) *Required.* Any owner or authorized agent who intends to construct, enlarge, alter, erect, or re-erect any permanent or temporary sign shall first make application to the building official and obtain the required sign permit.
- (b) *Work exempt from permit.*
 - (1) *Generally.* Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:
 - a. Political signs which comply with this chapter.
 - b. Municipal signs, legal notices, trespassing signs, signs to add safety.
 - c. Subdivision development signs.
 - d. Construction signs.
 - e. Residential real estate signs.
 - f. Painting, cleaning, and general maintenance of existing signs.
 - g. Changing of the advertising copy of an existing sign.
 - h. Open house signs not exceeding four square feet.
 - i. Tables constructed of bronze, brass, stone, or other noncombustible materials, when built or attached to the walls of the building.
 - j. Incidental and direction signs not exceeding three square feet.
 - (2) *Repairs.* Application or notice to the building official is not required for ordinary repairs to the sign structure, face, or replacement of lamps. Repairs shall not include modifications to the structure, alterations, replacement or relocation of any sign, or other work affecting public health or general safety.
- (c) *Application for permit.*
 - (1) To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the department of community development for that purpose. Such application shall:
 - a. Identify and describe the work to be covered by the permit for which application is made.
 - b. Describe the land on which the proposed work is to be done by legal description, street address, or similar description that will readily identify and definitely locate the proposed building or work.
 - c. Indicate the use and occupancy for which the proposed work is intended.
 - d. Be accompanied by construction documents and other information as required in section 9.1600.050.
 - e. State the valuation of the proposed work.
 - f. Be signed by the applicant, or the applicant's authorized agent.
 - g. Give such other data and information as required by the building official.

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- (2) *Action on application.* The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reason therefor. If the building official is satisfied that the proposed work conforms to the requirements of this Code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.
- (3) *Time limitation of application.* An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.
- (d) *Validity of permit.* The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the corrections of errors in the construction documents and other data. The building official is also authorized to prevent the use of a sign where in violations of this chapter or of any other ordinances of this jurisdiction.
- (e) *Expiration.* Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.
- (f) *Suspension or revocation.* The building official is authorized to suspend or revoke a permit issued under the provisions of this chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation, or any of the provisions of this chapter.

(Ord. No. 3.947, § 2(34.1600.040), 2-14-2005)

Sec. 9.1600.050. Construction documents.

- (a) *Submittal documents.*
- (1) *Generally.* Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. A sign company recognized by this jurisdiction shall prepare the construction documents. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.
- (2) *Information on construction documents.* Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this chapter and relevant laws, ordinances, rules and regulations, as determined by the building official.
- (b) *Site plan.* The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new sign construction and existing structures on the site, and distances from lot lines and, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site

plan shall show sign construction to be demolished and the location and size of existing structures and signs that are to remain on the site or plot. The building official is authorized to waive or modify the requirements for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

- (c) *Examination of documents.* The building official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this chapter and other pertinent laws or ordinances.
- (d) *Amended construction documents.* Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

(Ord. No. 3.947, § 2(34.1600.050), 2-14-2005)

Sec. 9.1600.060. Fees.

- (a) *Payment of fees.* A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.
- (b) *Schedule of permit fees.*
 - (1) For signs requiring a permit, a fee for each permit shall be paid as required, in accordance with the city's "Schedule of Fees and Charges," as amended.
 - (2) Exception: Permit fees shall not be required for the use of temporary signs, as defined herein, that are erected by any nonprofit, civic, fraternal, or charitable organization. These organizations, however, shall apply for a temporary sign permit and follow the other provisions of this chapter.
- (c) *Sign permit valuations.* The applicant for a permit shall provide an estimated permit value at the time of application. Permit valuations shall include total work, including materials and labor, for which the permit is being issued. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. The building official shall set final sign permit valuation.
- (d) *Work commencing before permit issuance.* Any person who commences any work on a sign before obtaining the necessary permits shall be subject to a fee established by the building official that shall be in addition to the required permit fee.
- (e) *Related fee.* The payment of the fee for the construction, alteration, removal, or demolition for work done in connection to or concurrently with the work authorized by a sign permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.
- (f) *Refunds.* The building official is authorized to establish a refund policy.

(Ord. No. 3.947, § 2(34.1600.060), 2-14-2005)

Sec. 9.1600.070. Inspections.

- (a) *Generally.* Work for which a sign permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter or of other ordinances of the city. Inspections presuming to give authority to violate or cancel the provisions of this chapter or of other ordinances of the city shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the

building official nor the city shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

(b) *Required inspections.* The building official, upon notification, shall make the inspections set forth as follows:

- (1) *Footing or pier inspections.* Footing and pier inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete footings and piers, any required forms shall be in place prior to inspection. Materials for the footing or piers shall be on the job, except, where concrete is ready mix in accordance with ASTM C 94, the concrete need not be on the job.
- (2) *Other inspections.* In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this chapter and other laws that are enforced by the department of community development, division of code enforcement.
- (3) *Final inspection.* The final inspection shall be made after all work required by the sign permit is completed.

(c) *Inspection requests.* It shall be the duty of the holder of the sign permit or the permit holder's duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspection of such work that are required by this Code.

(d) *Approval required.* Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or the permit holder's agent wherein the same fails to comply with this chapter. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

(Ord. No. 3.947, § 2(34.1600.070), 2-14-2005)

Sec. 9.1600.080. Stop work order.

- (a) *Authority.* Whenever the building official finds any work regulated by this chapter being performed in a manner either contrary to the provisions of this chapter or dangerous or unsafe, the building official is authorized to issue a stop work order.
- (b) *Issuance.* The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner, agent, or person in control of the sign, or to the contractor doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.
- (c) *Unlawful continuance.* Any person who shall continue to 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 subject to penalties as prescribed by law.

(Ord. No. 3.947, § 2(34.1600.080), 2-14-2005)

Sec. 9.1600.090. Unsafe signs.

- (a) *Generally.* Signs, new and existing, that are or hereafter become unsafe, insanitary or deficient, because of inadequate maintenance, constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, shall be deemed an unsafe condition. Unsafe signs shall be taken down and removed or made safe,

as the building official deems necessary and as provided for in this section. A sign without a face shall be deemed unsafe.

- (b) *Notice.* If an unsafe sign is found, the building official shall serve on the owner, agent, and/or person in control of the sign a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe sign to be demolished, within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejections of the terms of the order.
- (c) *Method of service.* Such notice shall deem properly served if a copy thereof is delivered to the owner, agent, and/or person in control of the sign personally; sent by certified or registered mail addressed to the owner, agent, and/or person in control of the sign at the last known address with the return receipt requested; or delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the sign affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.
- (d) *Failure to obey notice.* In case of failure, neglect, or refusal of the owner, agent, and/or person in control of the sign to obey the notice, the building official may cause such owner, agent, and/or person in control of sign to be prosecuted under section 9.1600.160, and/or institute any appropriate action to abate such sign as a public nuisance. All cost associated with this action shall be assessed against the owner, agent, and/or person in control of sign.

(Ord. No. 3.947, § 2(34.1600.090), 2-14-2005)

Sec. 9.1600.100. Permanent signs.

- (a) *Generally.* Permanent signs allowed within the city are limited to those specifically listed in this section, according to the land use zone in which they are located, and are subject to classification by the building official based on definitions and descriptions contained herein.
- (b) *Signs allowed within zones.* Permanent signs shall be limited to the following zones:
 - (1) *R-1, RP-1, R-2, and RP-2 zones.* Permanent signs shall be limited to the following:
 - a. *Nameplate signs.* One sign mounted on the building not more than two square feet (0.19 m²) in area, announcing the name and/or location of the occupants or the residence.
 - b. *Church signs.* May be allowed up to three ground signs per church, totaling not more than 40 square feet (3.72 m²) in area, on said church property, indicating activities and services therein provided.
 - c. *Subdivision entrance signs.* Up to two signs per street entrance to a residential plat; but not more than one sign per side of street.
 - (2) *R-3, RP-3, R-4, RP-4, RCH-1, and RPCH-1 zones.* Permanent signs shall be limited to the following:
 - a. *Ground signs.* Each development may have one ground sign, not to exceed 50 square feet (4.65 m²) in area, located adjacent to each street frontage and set back a minimum of 15 feet (4,572 mm) from the back of curb and located on private property.
 - b. *Incidental and directional signs.* These signs shall not be more than three square feet (0.28 m²) in area.
 - (3) *C-O, CP-O, C-1, CP-1, C-2, CP-2, C-3, CP-3, C-4, and CP-4 zones.* Permanent signs shall be limited to the following:

a. *Ground signs.*

1. Each separately platted lot shall be allowed one ground sign. Such ground sign shall not exceed 50 square feet (4.65 m²) in area and shall be set back a minimum of 15 feet (4,572 mm) from the back of curb and be located on private property.
 - i. All ground signs shall be constructed with 30 percent natural building material (e.g., stone, brick, wood, rock, etc.), subject to the approval of city staff.
 - ii. Landscaping. Landscaping shall include plant species approved by city staff and may include, but is not limited to, shrubs, bushes, trees, sod and the like, on the grounds surrounding a sign structure.

Landscape standards. The landscape standards in this code establish minimum landscape requirements for ground signs and apply to any development, including:

- (1) Building alterations
- (2) Site Improvements

Landscape coverage.

New development projects. Ground signs for new development projects shall be placed within a landscaped setting of not less than 240 square feet.

Redevelopment projects. Ground signs for redevelopment projects shall be placed within a landscaped setting of not less than 240 square feet; however, in the event the minimum square footage requirement cannot be completed due to street frontage constraints, a raised or ground level landscaped bed of at least 150 square feet shall be constructed. If redevelopment and retrofitting of monument signs due to landscaping requirements significantly reduces parking spaces on site, movement of the sign to an alternative location or enhancing landscaping on site shall be required, subject to the approval of city staff. Building materials shall be consistent with the required natural materials for construction of ground signs listed in section 9.1600.100 3(a)i.

2. Exceptions:

- i. A platted lot with more than one business located in more than one separately leased or owned freestanding building may maintain one ground sign per building but not to exceed a total of three ground signs for said platted lot, with each ground sign limited to a maximum of 50 square feet (4.65 m²) in area.
 - ii. In major shopping centers, each separately leased or owned freestanding building other than the center's principal building shall be allowed one ground sign on the leased or owned premises of such freestanding building, with each ground sign limited to a maximum of 50 square feet (4.65 m²) in area.
3. Electronic message center or changeable message signs. Manually and mechanically activated changeable message signs and electronic message centers shall be allowed subject to the following standards:
- (a) No more than 30 percent of the sign area may be used for electronic message centers (either mechanical or electronic) with changeable text.
 - (b) Portable signs shall not be converted directly for use as a pole or monument sign.
 - (c) Detached sign or manual changeable copy. Sign must be a detached sign and the electronic message center portion may not exceed more than 30 percent of the allowable square footage per face.

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- (d) Duration. Any portion of the message or image must be displayed for a minimum duration of 15 seconds.
 - (e) Text limitation. The text of the sign must be limited to ten words.
 - (f) Brightness. The sign must not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum of 500 nits (candelas per square meters) between dusk and dawn.
 - (g) Dimmer control. The sign must have an automatic dimmer control, to adjust illumination from daylight to night time maximums.
 - (h) Audio or pyrotechnics. Audio speakers or any form of pyrotechnics are prohibited.
 - (i) The change from one message to the next shall not take more than one second and may not involve flashing or movement of the text or images.
 - (j) The sign shall have an automatic default setting to a blank screen nonilluminated or standard text/image in case of malfunction.
 - (k) The amount of energy consumed by digital signage features such as readerboard signs, LED, and interior or exterior lighting shall be off-set by in-building (within primary structure) conservation measures to reduce adverse impacts to the environment.
 - (l) Energy conservation methods used shall support the mayors climate protection agreement and other city council environmental protection policies through the retrofitting of buildings, maximizing the use of energy efficient lighting, and encouraging employees to conserve energy.
 - (m) The energy conserved through conservation methods applied within a building shall be at least equal to the calculated energy usage of the proposed sign.
- b. *Incidental and directional signs.* These signs shall not be more than three square feet (0.28 m^2) in area.
 - c. *Wall signs.* Each building or store frontage of a business may be allowed a wall sign. Such wall sign shall not exceed 15 percent or 120 square feet (11.15 m^2), whichever is less, of the area of the building frontage or store frontage of the business. A wall sign shall be located only on the wall of a building in which the business is located. Wall signs shall not project above the top of a wall, fascia, or mansard a distance greater than 25 percent of the vertical dimension of the sign, or three feet (914 mm), whichever is less. A wall sign may have a projection beyond the wall on which it is located or beyond the legal setback line not to exceed one foot (305 mm) plus 0.5 feet (152 mm) per foot (mm) of clearance above the grade over 18 feet (5,486 mm) up to a maximum projection of five feet (1,524 mm). No projection shall be allowed for any wall sign with less than eight feet (2,434 mm) of clearance above grade.
 - d. *Off-building structural signs.* A business may maintain an off-building structural sign in lieu of or in addition to a wall sign. Signs of this type include but are not limited to marquee signs, certain canopy signs, and awning signs. Signs of this type may be attached to the building frontage or store frontage of the business or to an adjacent non-building structure such as the building or covered walkway supports. A sign may be located up to 35 feet (10,668 mm) from the main entrance of the business, but cannot be located in any parking lot or attached to an adjacent building or store frontage. The calculation method for this type of sign is 15 percent of the area of the building frontage or store frontage of the business, but not to exceed 120 square feet (11.15 m^2) for any combination of wall and off-business structural signs. Any awning signs or

canopy signs, which display any message, logo, or design will be considered and advertising medium and be calculated as such.

(4) *M-1 zones.* Permanent signs shall be the same as allowed in subsection (b)(3) of this section.

(c) *Illumination.* Unless otherwise restricted herein, permanent signs may be illuminated subject to the following conditions:

- (1) Ground signs exceeding 30 square feet (2.79 m²) in area shall be internally illuminated.
- (2) Other signs including ground signs less than 30 square feet (2.79 m²) may be internally illuminated or externally illuminated. Exterior illumination shall be top mounted and shielded to aim downward only.
- (3) Internally and externally illuminated signs shall be operated in such a manner and at such times as not to cause direct light or glare upon the occupants of neighboring properties or upon drivers of vehicles traveling the public streets.
- (4) No single light source element, which exceeds 15 watts (or its equivalent), shall be used in connection with a sign or to illuminate a sign in a way that exposes the face of the bulb light or lamp when viewed from a public street.
- (5) Illumination resulting from all signs and lighting on any one property in a nonresidential zone shall be shielded so that the light source elements ("light bulbs") are not directly visible from property in a residential zone that is adjacent to or across a street from the property in the nonresidential zone.
- (6) No internally illuminated sign shall be allowed on property in a residential zone. Lighting from all light sources operated for the purposes of sign illumination on property in a residential zone shall be shielded from other property in the residential zone.

(Ord. No. 3.947, § 2(34.1600.100), 2-14-2005; Ord. No. 4.105, § 3, 5-11-2009)

Sec. 9.1600.110. Temporary signs.

- (a) *Generally.* Temporary signs allowed within the city are limited to those specifically listed in this section, according to the land use zone in which they are located, and are subject to classification by the building official based on definitions and descriptions contained herein. Temporary signs shall identify a special, unique, or limited activity, service, product, or sale of limited duration.
- (b) *Number and timing.* A maximum of six temporary sign permits for ten days each may be issued for the same business at the same location per calendar year. Two temporary sign permits may be issued at the same time to run consecutively. All temporary signs shall be removed at the end of the day's business on the day such permit expires. Additional temporary sign permits shall not be issued for the same business at the same location within 14 days following the expiration of a previously issued temporary sign permit.
- (c) *Types.* The following shall be classified as temporary signs, but not limited to:
 - (1) Banners;
 - (2) Nonprojecting wall signs;
 - (3) Secured ground signs;
 - (4) Sandwich boards;
 - (5) Portable and wheeled signs;
 - (6) Searchlights;
 - (7) Balloons;

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- (8) Stringed continuous pennant flagging;
 - (9) Attention-attracting devices;
 - (10) Real estate signs (residential and commercial);
 - (11) Open house signs;
 - (12) Subdivision development signs;
 - (13) Construction signs; and
 - (14) Inflatable devices.
- (d) *Signs allowed within zones.* Temporary signs shall be limited to the following zones:
- (1) *R-1, RP-1, R-2, and RP-2 zones.* Temporary signs shall be limited to the following:
 - a. *Residential real estate signs.* One nonilluminated sign, not more than eight square feet (0.74 m²) in area per lot. Such real estate sign shall be allowed during the sale of the residential premises and shall be removed at close of such sale.
 - b. *Open house signs.* One nonilluminated off-site sign, not more than four square feet (0.37 m²) in area. Such sign shall not be erected more than one day prior to such open house and shall be removed at the close of such open house. Such signs shall denote the address, day, and time of such open house.
 - c. *Construction signs.* One nonilluminated sign, not more than eight square feet (0.74 m²) in area per lot. Such construction sign shall be allowed during the construction period and shall be removed at close of such construction work.
 - d. *Subdivision development signs.* Not more than two subdivision development signs located at least 100 feet (30,480 mm) from any dwelling not within the subdivision to which such sign pertains. Such signs shall be set back a minimum of 15 feet (4,572 mm) from back of curb, shall be removed upon completion of the subdivision development or installation of permanent subdivision signs, and shall not be more than 64 square feet (5.95 m²) in area.
 - e. *Garage sale signs.* Garage sale signs shall be allowed in accordance with chapter 1400 of this title.
 - (2) *R-3, RP-3, R-4, RP-4, RCH-1, and RPCH-2 zones.* Temporary signs shall be limited to the following:
 - a. *Residential real estate signs.*
 - 1. One nonilluminated sign, not more than eight square feet (0.74 m²) in area per lot, parcel, or tract. Such real estate sign shall be allowed during the sale of the residential premises and shall be removed at close of such sale.
 - 2. Exceptions are as follows:
 - i. Multiple townhouses and cluster housing similar in nature that are clustered on one lot, parcel or tract may be allowed to have one sign per unit, but such sign shall be located in front of such unit that is for sale.
 - ii. Condos shall be allowed one sign per unit, but such sign shall be located within such unit.
 - b. *Open house signs.* One nonilluminated off-site sign, not more than four square feet (0.37 m²) in area. Such sign shall not be erected more than one day prior to such open house and shall be removed at the close of such open house. Such sign shall denote the address, day, and time of such open house.

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- c. *Construction signs.* One nonilluminated sign, not more than eight square feet (0.74 m²) in area per lot, parcel or tract. Such construction sign shall be allowed during the construction period and shall be removed at close of such construction work.
 - d. *Subdivision development signs.* Not more than two subdivision development signs located at least 100 feet (30,480 mm) from any dwelling not within the subdivision to which such sign pertains. Such signs shall be set back a minimum of 15 feet (4,572 mm) from back of curb, shall be removed upon completion of the subdivision development or installation of permanent subdivision signs, and shall not be more than 64 square feet (5.95 m²) in area.
 - e. *Garage sale signs.* Garage sale signs shall be allowed in accordance with chapter 1400 of this title.
- (3) *C-O, CP-O, C-1, CP-1, C-2, CP-2, C-3, CP-3, C-4, and CP-4 zones.* Temporary signs shall be limited to the following:
- a. *Commercial real estate signs.* One nonilluminated sign, not more than 20 square feet (1.86 m²) in area per building or undeveloped lot. Such real estate sign shall be allowed during the sale, rent, or lease of the commercial premises and shall be removed at close of such sale, rent, or lease.
 - b. *Construction signs.* One nonilluminated sign, not more than 32 square feet (2.97 m²) in area, per building site. Such construction sign shall be allowed during the construction period and shall be removed at close of such construction work. At no time may a construction sign be used to advertise a building for sale, rent or lease.
 - c. *Other temporary signs.* Temporary signs as noted in subsection (c) of this section shall be allowed as long as a valid temporary permit has been issued and the following are met:
 - 1. Temporary signs shall be located only upon the lot upon which the special, unique, or limited activity, product or sale is to occur. Signs may be located in any required yard, but shall not extend over any lot line or within 15 feet (4,572 mm) of any point of vehicular access from a lot to a public street. Temporary signs shall not exceed 32 square feet (2.97 m²) in gross surface area for each exposed face.
 - 2. The height of any inflatable advertising device shall be limited to 40 feet (12,192 mm) including the supporting or attached structure, building or equipment, and shall meet the required setback for that zoned district.
 - 3. Major and minor shopping centers shall be allowed only one temporary sign at any one time.
 - 4. Temporary signs may be illuminated, but in such a manner and at such times as not to cause a direct glare of light upon the occupants of neighboring properties or upon drivers of vehicles traveling on the public streets. Illuminated temporary signs shall be illuminated such that the illumination is on and does not flash, rotate, strobe, cycle, or have any type of movement. Exception: Searchlights, as long as they shine upward.

(Ord. No. 3.947, § 2(34.1600.110), 2-14-2005)

Sec. 9.1600.120. Prohibited signs.

- (a) The following signs shall be prohibited within the city unless specifically approved by the city council for a specific location and use:
 - (1) Pole signs.
 - (2) Stringed continuous pennant flagging, except as permitted for in section 9.1600.110.

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- (3) Flashing signs or beacons.
 - (4) Signs containing lewd, pornographic, fraudulent or misleading information.
 - (5) Signs erected, placed, posted, or otherwise displayed on any street sign or post, traffic sign or post, utility poles, streetlight poles, traffic signal poles or equipment boxes, or other public property, or within rights-of-way.
 - (6) Roof signs as defined herein.
 - (7) Billboard signs, except as permitted for in section 9.1600.150.
 - (8) Off-premises sign as defined herein.
 - (9) Signs which obstruct any window, door, or fire escape opening or prevent free passage from one part of a building to another or to the outside.
 - (10) Signs which interfere with an opening required for ventilation.
- (b) Signs or other advertising structures or devices regulated by this chapter shall not be erected at an intersection of any street in such a manner as to obstruct free and clear vision, or at any location where, by reason of its position, shape or color, the sign may interfere with, obstruct the view of or be confused with any authorized sign, signal or device; or make use of the words "Stop," "Look," "Drive-In," "Danger," or any other words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse traffic.
- (Ord. No. 3.947, § 2(34.1600.120), 2-14-2005)

Sec. 9.1600.130. Special conditions.

- (a) *Legal nonconforming permanent signs.* Permanent signs which existed as of the date of adoption of the ordinance from which this chapter is derived and were then in full compliance with city codes or for which a permit was issued by the city prior to such date may continue to exist as a legal nonconforming permanent sign, subject to the following conditions:
- (1) No permit for the erection of an additional sign shall be issued for property upon which a legal nonconforming permanent sign currently exists. Exception: Temporary sign as defined herein.
 - (2) Should any legal nonconforming permanent sign be damaged by any means, to an extent of more than 50 percent of its replacement cost at time of damage, the sign shall not be reconstructed except in conformity with the provisions of this chapter.
 - (3) All legal nonconforming permanent signs shall be removed or shall be altered to conform to the provisions of this chapter when the name of the business changes, or when the nature of the business conducted on the premises changes, or when the sign is changed or modified either in shape or size.
 - (4) Any existing business within or outside of the city and new businesses which relocate or locate to a new location within the city shall apply for a sign permit for such new location and any use of a previously nonconforming permanent sign at either location shall be null and void.
 - (5) Normal maintenance of legal nonconforming permanent signs including making necessary nonstructural repairs or incidental alterations, which do not extend or intensify the nonconforming features of the permanent sign, shall be allowed.
 - (6) Structural alterations, enlargements, repairs, or extensions made to a legal nonconforming permanent sign shall result in the elimination of the nonconforming features of the sign.
- (b) *Nonconforming signs.* Signs, such as but not limited to banners, stringed continuous pennant flagging, or other attention-attracting devices, which existed as of the date of adoption of the ordinance from which this

chapter is derived and were then in full compliance with city codes, shall be brought into compliance with this chapter within one year of such adoption.

(Ord. No. 3.947, § 2(34.1600.130), 2-14-2005)

Sec. 9.1600.140. Political signs.

- (a) *Generally.* Political signs may be erected and maintained in the city in accordance with the provisions contained in this chapter.
- (b) *Location.* Political ground signs not exceeding 26 inches (660 mm) by 26 inches (660 mm) on each side may be erected on public property designated by the election authority as a polling place for an election during the 12 hours prior to the opening of the polls, during the time the polls are open, and during the 15 hours after the polls have closed.
- (c) *Restriction of political signs within residential zones.* Political signs located in an area zoned for residential use shall not exceed 26 inches (660 mm) by 26 inches (660 mm) on each side. In residential areas, the exposed political sign face shall not exceed an aggregate gross surface area of 64 square feet (5.95 m²) per lot.
- (d) *Restriction of political signs within commercial and industrial zones.* Political signs located in an area zoned for commercial or industrial use shall not exceed 32 square feet (2.97 m²) in total and shall not have any side greater than eight linear feet (2,438 mm). In commercial and industrial zoned areas, the exposed political sign face shall not exceed an aggregate gross surface area of 512 square feet (47.56 m²) per lot.
- (e) *Responsibility for removal.* The owner or occupier of the property upon which any political sign is erected, placed, or located shall be responsible for the removal of such sign within the time required by this chapter.
- (f) *Exceptions.* The provisions of this chapter shall not apply to notices posted by order of any court or to notices to the public required by law to be posted in public places.
- (g) *Legislative purpose and intent.* The city council makes the following findings of legislative purposes and intent:
 - (1) That the expression of political speech is an important and constitutionally protected right.
 - (2) That, under certain circumstances, it may be necessary to restrict or regulate the time, place and manner of the expression of such speech in order to advance and protect other significant legitimate interests of local government.
 - (3) That political signs have certain characteristics that distinguish them from many of the other types of signs permitted and regulated by the city. These characteristics include the fact that many of such signs, intended to be temporary in nature, do not meet the regular structural and installation requirements necessary to prevent them from being affected by weather and other natural forces and presenting a potential hazard to persons and property. Severe weather conditions, including, without limitation, thunderstorms with accompanying high winds, tornados, ice accumulation and flooding, are characteristic of local weather conditions. With respect to the temporary nature of such signs, the durational and illumination regulations provide a channel of communication on an election candidate or issue balancing the aesthetic and public health and safety concerns surrounding temporary structures.
 - (4) That the primary purpose of political signs placed along a roadway is to attract the attention of drivers and distract them from their primary responsibility of constant attention to traffic and road conditions. This concern is especially acute in residential areas where young children present a significant potential hazard for drivers. With respect to residential areas, with their lower speed limits, it is concluded that

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political signs not exceeding 26 inches (660 mm) by 26 inches (660 mm) on each side with no more than an aggregate sign surface area of 64 square feet (5.95 m²) per lot is adequate to convey most political messages. Although it is recognized that certain individuals may wish to express political thoughts that require a larger area to adequately convey them, a greater number of or larger and more complex messages would further distract drivers' attention, presenting an unacceptable safety risk, and there exists in the community adequate other means for conveying such message. In nonresidential areas, motorists frequently see and reasonably expect to see larger signs, so their attention is not as easily distracted, and higher speed limits, larger lot areas, and a larger size sign can be allowed consistent with safety requirements. Further, since permitted signage in residential areas is minimal, the aesthetic impact of signs in residential areas is much greater than in nonresidential areas.

- (5) That in addition to the safety and traffic interests affected by political signs, the city council concludes that the unrestricted proliferation of political signs would create visual clutter, have an adverse effect on the aesthetic quality of the city, with accompanying adverse economic effects, and detract from the desirable visual environment that the city has made a strong effort to create through its land use regulations.
- (6) That the city council concludes that the interests to be protected by this regulation are sufficiently substantial to justify the content-neutral regulation of political speech represented by this section, and that this section represents a reasonable accommodation of the city's interest with First Amendment rights.

(Ord. No. 3.947, § 2(34.1600.140), 2-14-2005)

Sec. 9.1600.150. Off-premises advertising.

- (a) *Rules and regulations.* Notwithstanding the provisions of any other section of this chapter, the rules and regulations set forth in this section and shall apply to off-premises outdoor advertising. All provisions of other sections of this chapter, which are not inconsistent with this section or with the Missouri Billboards Act (RSMo 226.500 et seq.), shall remain in full force and effect with respect to off-premises outdoor advertising. To the extent any other section of this chapter may be inconsistent with this section as applied to off-premises outdoor advertising, the rules and regulations of this section shall apply. Billboards or other off-premises outdoor advertising devices shall be allowed adjacent to roadways within the interstate or primary highway systems as defined herein within the city in areas zoned C-O, CP-O, C-1, CP-1, C-2, CP-2, C-3, CP-3, C-4, CP-4, and M-1 zones, subject to the regulations contained in this chapter. Billboards or other off-premises outdoor advertising devices shall be prohibited in all other zoning districts or adjacent to any other roadway within the city. Regulations pertaining to such structures are as follows:

- (1) *Lighting.*
 - a. No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any billboard or other off-premises outdoor advertising device. No flashing, intermittent, or moving light or lights will be permitted.
 - b. External lighting, such as floodlights, thin line and gooseneck reflectors, are permitted, provided the light source is directed upon the face of the billboard or other off-premises outdoor advertising device and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way on interstate or federal-aid primary highway and the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle.
 - c. No billboard or other off-premises outdoor advertising device shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal.

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- d. No billboard or other off-premises outdoor advertising device shall be so illuminated that the illumination is directed toward any residential area.
 - e. The maximum average lighting intensity level for such billboard or other off-premises outdoor advertising device shall be 20 footcandles (220 lux) at the light source.
- (2) *Size, height, and area of billboards.*
- a. The maximum area for any one billboard or other off-premises outdoor advertising device shall be 600 square feet (55.74 m²) with a maximum width of 30 feet (9,144 mm) and a maximum length of 60 feet (18,288 mm), inclusive of border and trim but excluding the base or apron, supports, and other structural members.
 - b. The maximum size limitations shall apply to each side of a billboard or other structure, and billboards may be placed back to back, double faced, or in V-type construction with not more than two displays to each facing, but sign structure shall be considered as one billboard.
 - c. An off-premises sign shall maintain a minimum clearance of ten feet (3,048 mm) measured from the ground level at the base of the sign to the bottom of the sign face.
 - d. The maximum height of a billboard or other structure shall not exceed 35 feet (10,668 mm) above grade level of the roadway to the bottom of the sign face, as measured from the centerline of the roadway to which the sign is oriented.
- (3) *Spacing of billboards.*
- a. No billboard or other off-premises outdoor advertising device shall be erected within 500 feet (152,400 mm) of an existing billboard on the same side of the highway on any highway in the interstate system as defined herein.
 - b. No billboard or other off-premises outdoor advertising device shall be erected within 500 feet (152,400 mm) of an existing billboard on the same side of the highway on any highway in the primary systems as defined herein.
 - c. No billboard or other off-premises outdoor advertising device shall be located in such a manner as to obstruct or otherwise physically interfere with the effectiveness of any official traffic sign, signal, or device or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic.
 - d. The measurement in this section shall be minimum distances between billboard or other outdoor advertising structures measured along the nearest edge of the pavement between points directly opposite the billboard or structure along each side of the highway and shall apply only to billboards or structures located on the same side of the highway involved. Directional and official signs shall not be counted nor shall measurements be made from such signs for the purpose of determining compliance with these spacing requirements.
 - e. Billboards or other off-premises outdoor advertising devices shall be oriented toward traffic on the interstate or primary highway.
- (4) *Setbacks, safety clearances and height.*
- a. In order to provide a safety zone to prevent injury or property damage from collapse of a billboard or other off-premises outdoor advertising device caused by act of God or other causes, each billboard or other off-premises outdoor advertising device shall have minimum setbacks of the following:
 - 1. At least 90 feet (27,432 mm) from the nearest edge to the right-of-way of any federal or state-designated routes; and

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2. At least 90 feet (27,432 mm) from all property lines and from all roofed structures, from all points of the billboard or other off-premises outdoor advertising device.
- b. In order to further provide a safety zone to prevent injury or property damage from collapse of a billboard or other off-premises outdoor advertising device caused by acts of God or other causes, each billboard or other off-premises outdoor advertising device shall have a maximum height, measured from the ground to the bottom of sign face of such structure, of 35 feet (10,668 mm). In addition, the applicant for permit shall present documentation to the reasonable satisfaction of the building official that the applicant has secured the legally enforceable right to prevent the erection of other structures within the setback zones. No city building permit shall be issued for construction of any building within the setback/clearance zone for any billboard or other off-premises outdoor advertising device.
- c. No billboard or other off-premises outdoor advertising device shall be located adjacent to or within 500 feet (152,400 mm) of any interchange, intersection at grade, safety rest area, or bridge approach. Said 500 feet (152,400 mm) shall be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way and from the beginning of the bridge deck.
- d. No billboard or other off-premises outdoor advertising device shall be located within 500 feet (152,400 mm) of land zoned for residential or utilized for public activity purposes. No billboard or other off-premises outdoor advertising device shall be located within 500 feet (152,400 mm) from any residential structure, church, school, park, or historical site or historical district designated by the federal, state, or city government.
- e. No billboard or other off-premises outdoor advertising device shall be located within 100 feet (30,480 mm) from any on-premises freestanding sign.
- (b) *Landscaping, lighting, and fencing.* Before a permit is issued, the applicant shall receive approval for a plan for landscaping, lighting and fencing around the proposed billboard or other off-premises outdoor advertising device to ensure that the structure will be aesthetically compatible with its surroundings and aesthetic standards of the community and neighboring property, insofar as may be practicable, as well as safe and secure from trespassers or vandals. Such plans shall be reviewed and approved by the building official. In determining whether the landscaping plan is reasonably suitable, the building official shall take into consideration the nature of the location, the impact on the surrounding properties, the safety and security of the proposed structure, and the relative cost of the landscaping, lighting and fencing to the applicant in relationship to the overall impact upon the property values in the immediate area which would be caused by a lack of such landscaping, lighting and fencing for the proposed structure.
- (c) *Nuisances.* Any billboard or other off-premises outdoor advertising device which, because of lack of maintenance, upkeep, vandalism, accumulation of litter, refuse or debris, or the deterioration of landscaping, lighting, or fencing, becomes unsightly or unsafe is hereby declared to be a nuisance and shall be subject to abatement by the city in the same manner as all other nuisances on private property.
- (d) *Service drives.* Direct access to a billboard or other off-premises outdoor advertising device from curb cuts along a state highway or service road shall be prohibited. Direct access shall be gained through paved roads and drives which are private and internal to a lot or parcel. All vehicles, equipment, and people used to build, service, maintain and repair such signs must confine their activity so as not to interfere with pedestrian or vehicular traffic on public roads.
- (e) *Legal nonconforming billboards.* Any billboard or other off-premises outdoor advertising device which was lawfully erected or affixed prior to the adoption of the ordinance from which this chapter is derived and which complied with all regulations in force at the time it was erected or affixed, but which fails to conform to all applicable regulations and restrictions of this chapter, shall be considered a legal nonconforming billboard or other off-premises outdoor advertising device. A legal nonconforming billboard or other off-

premises outdoor advertising device may be continued and shall be maintained in good condition, but shall not be:

- (1) Structurally altered so as to prolong the life of the sign;
 - (2) Altered so as to increase the degree of nonconformity of the sign;
 - (3) Expanded; or
 - (4) Reestablished after damage or destruction if the estimated cost of reconstruction exceeds 50 percent of the appraised replacement costs at the time of such damage occurred.
- (f) *Abandoned billboards.* Where a billboard structure or other off-premises outdoor advertising device does not include advertising information other than for the use of the billboard for a period of 180 continuous days, such billboard structure shall be deemed abandoned and shall be removed.
- (g) *Permits.* The city shall not issue a permit for any new billboard or other off-premises outdoor advertising device unless the following conditions have been met:
- (1) Issued a permit from the state department of transportation;
 - (2) The applicant shall submit the following surveys:
 - a. A certified boundary survey of the site showing location of the billboard or other off-premises outdoor advertising device and its setback/clearance zone; and
 - b. A survey to indicate the relative vertical and horizontal distances between the proposed structure and all other pole-mounted signs within 750 feet (228,600 mm). If, by reason of height, size, or spacing, the proposed structure creates a significant disharmony with pole-mounted signs within 750 feet (228,600 mm), or unreasonably detracts from the visibility of other neighboring signs or properties, the building official may require reasonable modification of the dimensions of the billboard or other off-premises outdoor advertising device to cure such deficiencies as a condition to granting a permit; and
 - (3) The city shall charge a sign permit fee, in accordance with the "Schedule of Fees and Charges" as amended, to ensure compliance with the city's wind load and electrical requirements when the billboard or other off-premises outdoor advertising device is first erected, but shall not charge any subsequent permit or inspection fee for such structure.

(Ord. No. 3.947, § 2(34.1600.150), 2-14-2005)

Sec. 9.1600.160. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm, or corporation to install, alter, move, enlarge, replace, repair, maintain, or use any sign, permanent or temporary, regulated by this chapter, or cause same to be done, in conflict with or in violation of any provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 3.947, § 2(34.1600.160), 2-14-2005)

CHAPTER 1700. DANGEROUS BUILDINGS INSURANCE PROCEEDS

Sec. 9.1700.010. General provisions.

- (a) *Scope.* The provisions of this chapter shall apply to all 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, tornado, lighting strikes, hail storms, ice storms, or other casualty losses.
- (b) *Intent.* The purpose of this chapter is to provide minimum requirements to safeguard the public health, safety, and general welfare of the citizens of the city, that buildings or structures damaged or lost due to a casualty loss be repaired or demolished as soon as possible after said casualty.

(Ord. No. 3.947, § 2(34.1700.010), 2-14-2005)

Sec. 9.1700.020. Applicability.

This chapter shall apply to all buildings or structures within the city limits.

(Ord. No. 3.947, § 2(34.1700.020), 2-14-2005)

Sec. 9.1700.030. 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. Where terms are not defined in this chapter and are defined in the building code, electrical code, energy conservation code, existing building code, fire code, fuel gas code, mechanical code, plumbing code, property maintenance code, or residential code, such terms shall have the meanings ascribed to them as in those codes. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building code means the International Building Code promulgated by the International Code Council, as adopted by this jurisdiction.

Building official means the officer or other designated authority charged with the administration and enforcement of this chapter, or a duly authorized representative.

Electrical code means the International Code Council Electrical Code—Administrative Provisions promulgated by the International Code Council and the following section of NFPA 70, National Electrical Code, as adopted by the ICC Electrical Code—Administrative Provisions, as adopted by this jurisdiction.

Energy conservation code means the International Energy Conservation Code promulgated by the International Code Council, as adopted by this jurisdiction.

Existing building code means the International Existing Building Code promulgated by the International Code Council, as adopted by this jurisdiction.

Fire code means the International Fire Code promulgated by the International Code Council, as adopted by this jurisdiction.

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Fuel gas code means the International Fuel Gas Code promulgated by the International Code Council, as adopted by this jurisdiction.

Mechanical code means the International Mechanical Code promulgated by the International Code Council, as adopted by this jurisdiction.

Occupancy means the purpose for which a building, or part thereof, is used or intended to be used.

Occupant means any individual living or sleeping in a building, or having possession of a space within a building.

Owner means any person, agent, firm or corporation having a legal or equitable interest in the property.

Person means a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Plumbing code means the International Plumbing Code promulgated by the International Code Council, as adopted by this jurisdiction.

Premises means a lot, plot or parcel of land, including any structures thereon.

Property maintenance code means the International Property Maintenance Code promulgated by the International Code Council, as adopted by this jurisdiction.

Residential code means the International Residential Code promulgated by the International Code Council, as adopted by this jurisdiction.

Structure means that which is built or constructed.

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

(Ord. No. 3.947, § 2(34.1700.030), 2-14-2005)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.1700.040. Payment of insurance claim proceeds to city.

If there are proceeds to any insurance policy based upon a covered claim payment made for damage of loss to a building or other structure caused by or arising out of any, but not limited to, fire, explosion, tornado, lightning strikes, hail storms, ice storms, or other casualty loss and such covered claim payment is in excess of 50 percent of the face value of the policy, then the insurer on such building or structure shall pay 25 percent of the insurance claim proceeds to the city treasurer and such proceeds shall be deposited into an interest bearing account. Any named mortgage on the insurance policy shall maintain priority over any obligation under this chapter. If a special tax bill or assessment is issued by the city for the expenses of demolition or repairs of such building as a dangerous building pursuant to section 9.2800.010 et seq., or section 9.1000.010 et seq., such expenses shall be paid from the applicable insurance proceeds held by the city treasurer; and if there is any excess, such shall be paid by the city treasurer to the insured or as the terms of the policy including any endorsements thereto provide.

(Ord. No. 3.947, § 2(34.1700.040), 2-14-2005; Ord. No. 4.185, § 1, 3-14-2011)

Sec. 9.1700.050. Procedure.

- (a) *Release of proceeds.* The city shall release the proceeds and any interest which has accrued on such proceeds to the insured or as the terms of the policy and endorsements thereto provide within 30 days after receipt of

insurance monies, unless the city has instituted legal proceedings under section 9.200.101 et seq., or section 9.1000.010 et seq. If such building or structure is repaired or demolished pursuant to this chapter as attested by the building official without cost to the city, then any insurance proceeds paid to the city treasurer and any interest thereon shall be paid to the insured or as the term of the policy including any endorsements thereto provide.

- (b) *Bids for demolition.* When the city takes bids from independent contractors for demolition of a building, bidders shall deduct any salvage value materials the building or structure may have from the cost of the demolition in arriving at their bid amount. Should city employees do the demolition, the actual cash value of salvaged materials shall be deducted from the special tax bill for such demolition. In no case will the net cost of demolition be increased in order to effect salvage of materials.
- (c) *Proof of compliance.* Upon presentation of satisfactory proof that the insured has removed debris and repaired, rebuilt or otherwise made the insured premises safe and secure, the building official shall issue a certificate within 30 days after receipt of such satisfactory proof to permit the insurance proceeds and any interest that has accrued on such proceeds received to be released to the insured or as the terms of the policy including any endorsements thereto provide without deduction. It shall be the obligation of the insured or other person making claim to the proceeds to provide the insurance company with such certificate.

(Ord. No. 3.947, § 2(34.1700.050), 2-14-2005)

Sec. 9.1700.060. Effect on insurance policies.

This chapter shall 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.

(Ord. No. 3.947, § 2(34.1700.060), 2-14-2005)

Sec. 9.1700.070. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 3.947, § 2(34.1700.070), 2-14-2005)

CHAPTER 1800. RESTRICTIVE ROOF COVENANTS

Sec. 9.1800.010. General provisions.

- (a) *Scope.* The provisions of this chapter shall apply to establishment or enforcement of restrictive covenants that require the exclusive use of wood shingles or other wood product roof covering materials, either in initial construction or replacement of existing roofing materials, on residential structures within the city.
- (b) *Intent.* The purpose of this chapter is to provide property owners with a wider choice of roofing materials resulting in the greater use of more fire-resistant roofing materials that will reduce the likelihood of injury, loss of life, and fire damage to property within the city, and, further, will reduce the demand for emergency fire protection and emergency medical services upon the resources of the ~~public safety~~fire department.

(Ord. No. 3.947, § 2(34.1800.010), 2-14-2005)

Sec. 9.1800.020. Applicability.

This chapter shall apply to all residential buildings or structures within the city limits.

(Ord. No. 3.947, § 2(34.1800.020), 2-14-2005)

Sec. 9.1800.030. 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. Where terms are not defined in this chapter and are defined in the building code, existing building code, fire code, or residential code, such terms shall have the meanings ascribed to them as in those codes. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Accessory structure means, in one- and two-family dwellings not more than three stories high with separate means of egress, a building, the use of which is incidental to that of the main building and which is located on the same lot.

Addition means an extension or increase in floor area or height of a building or structure.

Building means any one- and two-family dwelling or portion thereof, including townhouses, that is used, or designed or intended to be used, for human habitation, for living, sleeping, cooking or eating purposes, or any combination thereof, and shall include accessory structures thereto.

Building code means the International Building Code promulgated by the International Code Council, as adopted by this jurisdiction.

Building official means the officer or other designated authority charged with the administration and enforcement of this chapter, or a duly authorized representative.

Builtup roof covering means two or more layers of felt cemented together and surfaced with a cap sheet, mineral aggregate, smooth coating or similar surfacing material.

Combustible material means any material not defined as noncombustible.

Dwelling means any building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased let or hired out to be occupied, or that are occupied for living purposes.

Dwelling unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Existing building code means the International Existing Building Code promulgated by the International Code Council, as adopted by this jurisdiction.

Fire code means the International Fire Code promulgated by the International Code Council, as adopted by this jurisdiction.

Flame spread means the propagation of flame over a surface.

Flame spread index means the numeric value assigned a material tested in accordance with ASTM E 84.

Metal roof panel means an interlocking metal sheet having a minimum installed weather exposure of at least three square feet (0.28 m²) per sheet.

Metal roof shingle means an interlocking metal sheet having an installed weather exposure less than three square feet (0.28 m²) per sheet.

Modified bitumen roof covering means one or more layers of polymer modified asphalt sheets. The sheet materials shall be fully adhered or mechanically attached to the substrate or held in place with an approved ballast layer.

Occupancy means the purpose for which a building, or part thereof, is used or intended to be used.

Occupant means any individual living or sleeping in a building, or having possession of a space within a building.

Owner means any person, agent, firm or corporation having a legal or equitable interest in the property.

Person means a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Premises means a lot, plot or parcel of land, including any structures thereon.

Residential code means the International Residential Code promulgated by the International Code Council, as adopted by this jurisdiction.

Reroofing means the process of recovering or replacing an existing roof covering. See "Roof recover."

Roof assembly means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly includes the roof deck, vapor retarder, substrate or thermal barrier, insulation, vapor retarder, and roof covering.

Roof covering means the covering applied to the roof deck for weather resistance, fire classification or appearance.

Roof covering system. See "Roof assembly."

Roof deck means the flat or slope surface not including its supporting members or vertical supports.

Roof recover means the process of installing an additional roof covering over a prepared existing roof covering without removing the existing roof covering.

Roof repair means reconstruction or renewal of any part of an existing roof for the purpose of its maintenance.

Single ply membrane means a roofing membrane that is field applied using one layer of membrane material (either homogeneous or composite) rather than multiple layers.

Smoke-developed rating means a numerical index indicating the relative density of smoke produced by burning assigned to a material tested in accordance with ASTM E 84.

Structure means that which is built or constructed.

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Townhouse means a single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.

Underlayment means one or more layers of felt, sheathing paper, nonbituminous saturated felt, or other approved material over which a roof covering, with a slope of 2 to 12 (17 percent slope) or greater, is applied.

(Ord. No. 3.947, § 2(34.1800.030), 2-14-2005)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.1800.040. Restrictive covenants requiring exclusive use of wood shingles or wood product materials prohibited.

- (a) *Exclusive use prohibited.* It shall be unlawful to establish or enforce a restrictive covenant which requires the exclusive use of wood shingles, or wood shake roof covering material on a residential dwelling within the city and any such restrictive covenant is contrary to the public policy of the city and is null and void.
- (b) *Limiting Class C prohibited.* It shall be unlawful to establish or enforce a restrictive covenant which permits the use of either wood shingles, wood shake, tile or slate but no other Class C roofing material on a residential dwelling within the city and any such restrictive covenant is contrary to the public policy of the city and is null and void.
- (c) *Restrictive covenants allowed.* Nothing in this chapter shall prohibit a restrictive covenant regulating the kind of roofing materials used or regulating colors, styles or dimensions of roofing materials, or other aesthetic factors so long as the regulations are not contrary to the provision of subsections (a) and (b) of this section.

(Ord. No. 3.947, § 2(34.1800.040), 2-14-2005)

Sec. 9.1800.050. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 3.947, § 2(34.1800.050), 2-14-2005)

CHAPTER 1900. NATIVE PLANTINGS⁷²

- CODE OF ORDINANCES
Title IX - BUILDING AND CONSTRUCTION ORDINANCE (BACO)
CHAPTER 1900. NATIVE PLANTINGS

⁷²Cross reference(s)—Weeds and other rank vegetation, § 2.110.030Cross reference(s)— et seq.; community forestry plan, § 9.1200.010Cross reference(s)— et seq.

Sec. 9.1900.010. General provisions.

The purpose of this chapter is to provide guidelines, requirements, and standards to protect the public health and welfare, increase and preserve residential and commercially developed land values, provide an aesthetically compatible and pleasing urban environment, solidify the city's position as a livable suburban community within the Kansas City metropolitan area.

(Ord. No. 3.947, § 2(34.1900.010), 2-14-2005)

Sec. 9.1900.020. Applicability.

The provisions of this chapter apply to all real property within the corporate limits of the city.

(Ord. No. 3.947, § 2(34.1900.020), 2-14-2005)

Sec. 9.1900.030. 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. Where terms are not defined in this chapter and are defined in the International Property Maintenance Code, such terms shall have the meanings ascribed to them as in that code. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Annual means a plant that completes its life cycle in one year as opposed to a perennial that comes back year after year.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building official means the official who is charged with the administration and enforcement of this chapter, or a duly authorized representative.

Court means an open, uncovered space, unobstructed to the sky, bounded on three or more sides by exterior building walls or other enclosing devices.

Cut back means a pruning technique used to keep leggy plants more compact, to promote new foliage growth, or to coerce plants to bloom repeatedly.

Enclosed area means any area which is inaccessible to the public view.

Exterior property means the open space on the premises and on adjoining property under the control of operators of the premises.

Forb means a herbaceous plant in a prairie or savanna that dies to the ground every year at the end of the growing season. Grasses, shrubs, and trees are not forbs but "wildflowers" such as coneflower and gayfeather are forbs.

Hardy refers to a plant's ability to withstand adverse winter conditions.

Hedgerow means a thicket of small trees and shrubs arranged in a relatively straight line.

Imminent danger means a condition which could cause serious or life-threatening injury or death at any time.

Lot line means a line dividing one lot from another, or from a street or any public place.

Mulch means a protective covering spread on the ground to reduce weeds and to conserve soil moisture.

Native means a plant that originated in this state and was not introduced; a plant that existed within the state borders prior to the arrival of settlers.

Nurse crop means a quick-growing crop like annual rye or buckwheat, which is planted to keep the soil covered and to protect fall-seeded natives until they germinate in spring. Nurse crops are frequently used on soil prone to erosion.

Occupancy means the purpose for which a building or portion thereof is utilized or occupied.

Occupant means any individual living or sleeping in a building, or having possession of a space within in building.

Owner means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Person means a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Premises means a lot, plot or parcel of land, including any structures thereon.

Property. See "Premises."

Structure means that which is built or constructed or a portion thereof.

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Yard means an open space, other than a court, unobstructed from the ground to the sky on the lot on which a building is situated.

(Ord. No. 3.947, § 2(34.1900.030), 2-14-2005)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.1900.040. Maintenance.

Landscaping, plantings, and other types of decorative surface treatments, including common species of grasses, shall be maintained to present an attractive appearance and shall comply with section 9.1000.010 et seq. All plantings shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on public rights-of-way and shall be maintained so as to enhance the appearance and value of the property on which located and thereby the appearance and value of the neighborhood and city. Exception: Properties that have made application for and have an approved land management plan from the department of community development.

(Ord. No. 3.947, § 2(34.1900.040), 2-14-2005)

Sec. 9.1900.050. Land management plan.

- (a) *Generally.* The owner of the property shall apply for approval of a land management plan for native landscaping, native plantings, and other native decorative surface treatments with the department of community development.
- (b) *Application requirements.* Each application shall be on a form provided by the department of community development. The applicant shall deliver a copy of the completed application and the applicant's written plan

to each owner of record, of the properties situated in whole or in part within 185 feet (56,388 mm) of the property requesting approval of a land management plan. The applicant shall certify, under oath, on a form furnished by the department of community development, that such owners have been duly notified and the manner in which they have been notified. If, within 30 days of receipt of the application, 51 percent or more of such property owners file a written objection to the application, the department of community development shall deny that application; the application may still be denied if less than 51 percent object. The applicant shall maintain all native landscaping, native plantings, and native decorative surface treatments not to exceed ten inches (254 mm) between June 30 and February 15 when the fire inspector, in the fire inspector's discretion, so orders.

- (c) *Information required.* The following information shall be required and supplied on or submitted with the application:
- (1) A legal description of the property upon which the native landscaping, native plantings and other native decorative surface treatments will be located;
 - (2) A site plan indicating location of the native landscaping, native plantings and other native decorative surface treatments and location of all easements. Native landscaping, native plantings and other native decorative surface treatments shall not be located within any drainage easements associated with open ditches, creeks, swales, or streams;
 - (3) A statement that the lawn shall not contain noxious weeds, defined herein as poison ivy, poison oak, poison sumac, and plants containing thistles or other vegetation that may raise lesions upon brief contact by a person with plant material or secretion from the weed or plant;
 - (4) A statement of intent and purpose for the native landscaping, native plantings and other native decorative surface treatments;
 - (5) A statement of the timeline and schedule of actions for the transition to native landscaping, native plantings and other native decorative surface treatments;
 - (6) A general description of the native vegetation types, native plants, and native plant succession involved, and the specific management and maintenance techniques to be employed;
 - (7) Provisions for an approved border of not less than 12 inches (305 mm) in width by four inches (102 mm) in depth encasing the complete perimeter of the proposed native landscaping, native plantings and other native decorative surface treatments;
 - (8) Provisions for maintaining a green space free from weeds or plant growth in excess of ten inches (254 mm) within ten feet (3,048 mm) from all property lines;
 - (9) Provisions for maintaining a green space free from weeds or plant growth in excess of ten inches (254 mm) within 15 feet (4,572 mm) of all structures; and
 - (10) Provisions for the prevention of creating an insect or rodent harborage.
- (d) *Revocation.* The land management plan may be revoked for failure to comply with any of the aforementioned requirements. A notice of revocation of the land management plan shall be served upon the owner of the property. The notice shall inform the owner that the owner has 30 days to remove all native landscaping, native plantings, and other native decorative surface treatments and maintain the yard in compliance with section 9.1000.010 et seq., or appeal the revocation to the board of zoning adjustment (BZA) of the city.

(Ord. No. 3.947, § 2(34.1900.050), 2-14-2005)

Sec. 9.1900.060. Appeals.

The owner of the property may appeal the decision of the department of community development concerning the approval or disapproval of a land management plan. All appeals shall be to the board of zoning adjustment (BZA) of the city, and shall be submitted within 30 days of approval or disapproval of the land management plan.

(Ord. No. 3.947, § 2(34.1900.060), 2-14-2005)

Sec. 9.1900.070. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provision of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificates or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of zoning adjustment (BZA), or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 3.947, § 2(34.1900.070), 2-14-2005)

CHAPTER 2000. SWIMMING POOL AND SPA REGULATIONS (RESERVED)⁷³

⁷³Editor's note(s)—Ord. No. 4.321 Editor's note(s)—, adopted Sept. 14, 2015, repealed ch. 2000Editor's note(s)— and enacted a new chapter pertaining to swimming pool and spa regulations. The former ch. 2000Editor's note(s)—, §§ 9.2000.010—9.2000.090, derived from Ord. No. 4.230, adopted Feb. 25, 2013. The new ch. 2000Editor's note(s)— is not set out herein, but can be found on file in the office of the city clerk.

Secs. 9.2000.010—9.2000.090. Reserved.

CHAPTER 2100. PORTABLE STORAGE UNITS AND DUMPSTERS

Sec. 9.2100.010. General provisions.

- (a) *Scope.* The provisions of this chapter shall apply to the location and length of use of portable storage containers and dumpsters in the City of Gladstone.
- (b) *Intent.* The purpose of this chapter is to provide minimum requirements to safeguard life, health, property, and public welfare, by regulating and controlling the location, length of use, and to provide aesthetically compatible and pleasing urban environment, and solidify the City of Gladstone's position as a livable suburban community.

(Ord. No. 3.976, § 1, 12-12-2005)

Sec. 9.2100.020. Applicability.

This chapter shall apply to all real property within the corporate limits of the City of Gladstone, Missouri.

(Ord. No. 3.976, § 1, 12-12-2005)

Sec. 9.2100.030. 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. Where terms are not defined in this chapter and are defined in the building code, residential code or property maintenance code, such terms shall have the meaning ascribed to them as in those codes. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Alley. See "public way."

Approved means approved to the building official or other authority having jurisdiction.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building line means a line established by laws, beyond which a building shall not extend, except as specifically provided by law.

Building official means the officer who is charged with the administration and enforcement of this chapter, or any duly authorized representative.

Debris means discarded waste and/or the remains of something broken down or destroyed.

Dumpster means a large container used for the storage of refuse.

Egress court means a court or yard, which provides access to a public way for one or more exits.

Easement means that portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on, or above a said lot or lots.

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- (1) *Access.* That portion of land or property reserved for present or future use by a person or agency to access utility or drainage easements or adjacent properties. The easement shall be permitted to be for use on said lot or lots.
 - (2) *Drainage.* That portion of land or property reserved for present or future storm water run-off. The easement shall be permitted to be for use under or on said lot or lots.
 - (3) *Utility.* That portion of land or property reserved for present or future utility, such as electric, gas, waster, etc. The easement shall be permitted to be for use under, on, or above a said lot or lots.

Emergency escape and rescue opening means an operable window, door or similar device that provides for a means of escape and access for rescue in the event of an emergency.

Exterior property means the open space on the premises and on adjoining property under the control of owners or operator of such premises.

Fire chief means the chief officer of the fire department serving the jurisdiction, or a duly authorized representative.

Fire code official means the fire chief or other designated authority charged with the administration and enforcement of the fire code, or a duly authorized representative.

Garbage means the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Hazardous materials means those chemicals or substances that are physical hazards or health hazards as defined and classified in the Fire Code, whether the materials are in usable or waste condition.

Imminent danger means a condition, which could cause serious, or life-threatening injury or death at any time.

Lot means a portion or parcel of land considered as a unit.

Lot line means a line dividing one lot from another, or from a street or any public way.

Occupant means any individual living or sleeping in a building, or having possession of a space within a building.

Offal means the material that is left as waste or by-product of a process of preparation or manufacture.

Owner means any person, agent, firm or corporation having a legal or equitable interest in the property.

Permit means the official document or certificate issued by the authority having jurisdiction that authorizes performance of a specified activity.

Person means an individual, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Portable storage unit means any container designed for the storage of personal property of a non-hazardous nature which is typically rented to owners or occupants of property for their temporary use and which is typically delivered and removed by truck.

Premises means a lot, plot or parcel of land, easement or public way, including any structures thereon.

Public way means any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Rubbish means any combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior rubber, leather, tree branches, yard trimmings, tin can, metals, mineral matter, glass, crockery and dust and other similar materials.

Refuse means rubbish, trash, garbage, debris, offal, or any material rejected as useless and fit only to be thrown out or away.

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Trash means something worth relatively little or nothing.

Trash can means a metal or plastic receptacle for dry refuse.

Yard means an open space, other than a court, unobstructed from the ground to the sky, on the lot on which a building is situated.

(Ord. No. 3.976, § 1, 12-12-2005)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.2100.040. Permit required; application.

- (a) *Required.* Any owner, tenant, or authorized agent who intends to use a portable storage unit or dumpster shall first make application to the building official and obtain a permit.
- (b) *Exempt from permit.* Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for the use to be in violation of the provisions of this chapter or any other laws or ordinances of the jurisdiction. Permits shall not be required for the following:
 - (1) When being used in conjunction with a construction project, that has a valid building permit.
 - (2) When the city manager has declared the city or section thereof a disaster area.
 - (3) When being used in conjunction with an approved special events permit.
- (c) *Application for permit.* To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the department of community development for that purpose. Such application shall:
 - (1) Describe the land on which the proposed portable storage unit or dumpster shall be located by legal description, street address, or similar description that will readily identify and definitely locate the proposed location.
 - (2) Company name, address, phone and fax numbers where proposed portable storage unit or dumpster is being rented from.
 - (3) Date of delivery.
 - (4) Be signed by the applicant, or the applicant's authorized agent.
 - (5) Give such other data and information as required by the building official.
- (d) *Action on application.* The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application does not conform to the requirements or pertinent laws, the building official shall reject such application. If the building official is satisfied that the application conforms to the requirements of this chapter, codes, laws, and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.
- (e) *Validity of permit.* The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on information given shall not prevent the building official from requiring the corrections of errors in the information given. The

building official is also authorized to prevent use of portable storage units and dumpsters, where in violation of this chapter or of any other ordinances of this jurisdiction.

- (f) *Suspension or revocation.* The building official is authorized to suspend or revoke a permit issued under the provisions of this chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation, or any of the provisions of this chapter.

(Ord. No. 3.976, § 1, 12-12-2005)

Sec. 9.2100.050. Permit conditions.

- (a) *Number of permits.*
- (1) A permit is required for each portable storage unit or dumpster, with a maximum of two permits per address location per calendar year.
 - (2) Exception: A third permit shall be permitted to an address location upon satisfactory proof of a bona fide change in ownership.
- (b) *Length of permit.* Permits for portable storage units shall be good for 14 days and permits for dumpsters shall be good for 30 days, from date of issuance. A second consecutive permit may be issued for seven days for a portable storage unit and 15 days for a dumpster

(Ord. No. 3.976, § 1, 12-12-2005)

Sec. 9.2100.060. Fees.

- (a) *Payment of fees.* A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.
- (b) *Permit fee.* Portable storage units and dumpsters requiring a permit, a fee of \$25.00 shall be paid for each permit. Portable storage units or dumpsters placed on the property prior to obtaining a permit, a penalty fee equal to the permit fee shall be assessed in addition to the required permit fee.
- (c) *Related fees.* The payment of the fee for the portable storage unit or dumpster shall not relieve the applicant, supplying company, or holder of the permit from the payment of other fees that are prescribed by law.

(Ord. No. 3.976, § 1, 12-12-2005)

Sec. 9.2100.070. Portable storage units and dumpsters.

- (a) *Condition and maintenance of.* All portable storage units and dumpsters shall be delivered and maintained in good condition, free from rodents, insects, graffiti, vulgar and/or pornographic words or pictures.
- (b) *Responsibility to maintain.* It shall be the responsibility of the permit holder, while located on site, and the supplying company to maintain the portable storage units or dumpsters. If at any time that the portable storage unit or dumpster is found to be in violations of section 9.2100.070 et seq., the building official shall notify the permit holder and/or supplying company to remove such violation. Such violation shall be corrected within 72 hours of notification.
- (c) *Form of notification.* Notification of violation shall be by one or more of the following:

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- (1) Phone call (leaving message on an answering machine or voice mail shall be considered as if spoken to permit holder or supplying company).
 - (2) Written notice mailed, faxed, e-mailed, or served.
 - (3) Posting of property.
 - (4) Verbal notification in person with permit holder or supplying company.
- (d) *Placement of.* All portable storage units and dumpsters shall be placed on a paved surface a minimum of ten feet behind the front property line, shall not encroach onto adjoining properties, shall not be located on any easement, and shall not block or hinder access to or from emergency escape and rescue openings.
- (e) *Contents of portable storage units.* The following includes, but is not limited too, items that shall not be placed or stored within portable storage units:
- (1) Debris;
 - (2) Garbage;
 - (3) Hazardous materials;
 - (4) Offal;
 - (5) Rubbish;
 - (6) Refuse; and/or
 - (7) Trash.
- (f) *Contents of dumpsters.* The following includes, but is not limited too, items that shall not be placed or stored in dumpsters:
- (1) Hazardous materials.
- (Ord. No. 3.976, § 1, 12-12-2005)

Sec. 9.2100.080. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to deliver, have delivered, or maintain, a portable storage unit or dumpster regulated by this chapter, or cause same to be done, in conflict with or in violation of any provisions of this chapter.
 - (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made there under, or any certificate or permit issued there under, from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.
- (Ord. No. 3.976, § 1, 12-12-2005)

CHAPTER 2200. EROSION AND SEDIMENT CONTROL

Sec. 9.2200.010. General provisions.

- (a) *Scope.* The provisions of this chapter are to set forth procedures for controlling erosion and sediment caused by land disturbance activities, in the City of Gladstone.
- (b) *Intent.* The purpose of this chapter is to provide minimum requirements to safeguard life, health, property, and public welfare, by regulating and controlling the design, construction, and use of development or other activities, which disturbs or breaks the topsoil or results in the movement of earth on land in the City of Gladstone.

(Ord. No. 3.976, § 2, 12-12-2005)

Sec. 9.2200.020. Applicability.

This chapter shall apply to all real property within the corporate limits of the City of Gladstone, Missouri.

(Ord. No. 3.976, § 2, 12-12-2005)

Sec. 9.2200.030. 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. Where terms are not defined in this chapter and are defined in the building code or residential code, such term shall have the meaning ascribed to them as in those codes. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Accelerated erosion. See "erosion."

Alluvial soil means a soil formed from materials transported in suspension by flowing water and deposited by sedimentation.

Anchor trench means a long, narrow ditch in which the edges of a material (e.g. silt fence, erosion control blanket or geotextile etc.) are buried to hold in place.

Approved means any structure used or intended for supporting or sheltering any use of occupancy.

Approved source means an independent person, firm or corporation, approved by the building official, who is competent and experienced in the application of engineering principles to materials, methods or systems analyses.

Best management practices (BMP) means the preferred methods and/or products that will correct or control erosion, sedimentation or water quality degradation on a specific site for particular site conditions.

Blanket means a rolled materials consisting of coir (coconut fiber), jute, straw, wood fiber, or various synthetic materials used to prevent erosion, trap sediment, protect seed and promote the growth of vegetation. They can be either degradable or permanent.

Building official means the officer or other designated authority charged with the administration and enforcement of this chapter, or a duly authorized representative.

Certified professional soil erosion and sediment control specialist (CPESC) means an individual(s) that are designated by the Soil and Water Conservation Society.

Cellular confinement system means a synthetic grid with open spaces filled with soil, sand, gravel, or concrete. The matrix mechanically stabilizes these materials and is used for erosion control and/or load support applications.

Channel erosion. See "erosion."

Channel stabilization means the protection of the sides and bed of a channel from erosion by controlling flow velocities and directions or by lining the channel with vegetation, riprap, concrete or other material.

Check dam (rock check structures) means a temporary barriers of three to six inch rock constructed across a swale or drainage ditch. Used to reduce the velocity of concentrated stormwater flows, reduce degradation and to trap sediment.

Clearing means any activity, which removes the vegetative surface cover.

Department of Natural Resources (DNR) means the state agency in Missouri responsible for preserving and protecting the state's natural and cultural resources. DNR is responsible for regulating the NPDES program (which includes stormwater runoff permitting).

Design standards means the defined conditions where a specific conservation practice or set of practices are to be used.

Drainage way means any channel that conveys surface runoff throughout the site.

Easement means that portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on, or above a said lot or lots.

- (1) *Access* means that portion of land or property reserved for present or future use by a person or agency to access utility or drainage easements or adjacent properties. The easement shall be permitted to be for use on said lot or lots.
- (2) *Drainage* means that portion of land or property reserved for present or future storm water run-off. The easement shall be permitted to be for use under or on said lot or lots.
- (3) *Utility* means that portion of land or property reserved for present or future utility, such as electric, gas, waster, etc. The easement shall be permitted to be for use under, on, or above a said lot or lots.

Environmental Protection Agency (EPA) means the federal agency responsible for the enforcement of the Clean Water Act.

Erosion means the process, by which soil particles are detached, transported and deposited by wind, water, ice, or gravity. The following terms are used to describe different types of erosion:

- (1) *Accelerated erosion* means erosion much more rapid than natural or geologic erosion, primarily as a result of human activities.
- (2) *Channel erosion* means the widening, deepening, and headward cutting of small channels and waterways due to erosion caused by moderate to large floods.
- (3) *Gully erosion* means the erosion process whereby runoff water accumulates in narrow channels, and, over relatively short time periods, removes the soil to considerable depths. When surface channels cannot be smoothed out by normal agricultural tillage operations, they are called gullies.
- (4) *Sheet erosion* means the gradual removal of a fairly uniform layer of soil from the land surface by runoff water.
- (5) *Shoreline erosion* means the loss of soil materials due to the wave action of a permanent waterbody such as a pond, lake, or ocean.
- (6) *Splash erosion.* The spattering of small soil particles caused by the impact of raindrops on wet soils. The loosened and spattered particles may or may not be subsequently removed by surface runoff.

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- (7) *Rill erosion* means the erosion process whereby numerous small channels only several inches deep are formed. Commonly occurs on recently disturbed and exposed soils.
- (8) *Saltation* means the movement of soil particles by rolling or a series of short bounces along the ground surface due to the wind.
- (9) *Suspension* means the transport of soil particles by the wind for relatively long distances.

Erosion control means the prevention and/or reduction of soil particle movement. Erosion control reduces soil detachment, transport, and deposition.

Erosion control blanket means temporary or permanent fabricated materials that protect the soil and enhance the establishment of vegetation.

Erosion control revegetation mat (ECRM) means a permanent blanket made of synthetic material used for long-term protection against soil movement.

Erosion Control Technology Council (ECTC) means a division of the International Erosion Control Association, which develops standards and guidelines for products and testing of materials.

Erosion and sediment control plan means a set of plans, prepared by or under the direction of a licensed professional engineer, indicating specific measures and sequencing to be used controlling erosion and sediment on a development site before, during, and after construction.

Fabric. See "geotextile."

Fee means a refundable deposit placed with the City of Gladstone, to cover any cost associated with the repair or maintenance of the provisions of this chapter that are found in violation and not rectified by the owner.

Filter cloth. See "geotextile."

Geotextile (fabric, filter cloth) means a woven or nonwoven water permeable material either natural or synthetic used to filter liquids and to prevent the movement of sediment, to separate different materials or to reinforce and strengthen them.

Ground cover means any vegetation producing a protective mat on or just above the soil surface. Usually refers to low-growing herbaceous plants.

Grading means the excavation or fill of material, including the resulting conditions thereof.

Gully erosion. See "erosion."

Land disturbance means any activity that changes the physical conditions of landform, vegetation and hydrology, creates bare soil, or otherwise may cause Erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavation, filling, logging and storing of materials.

Landscaping means the placement of sod, seed, trees, and other vegetation after final grading is complete.

Lot means a parcel of land occupied or to be occupied by one building, or unit group of buildings, and the accessory buildings or use customarily incident thereto.

Natural erosion means the natural influence of climatic forces on the surface of the earth.

Normal water level means the average summer water level. The free surface associated with flow in natural streams.

Owner means any person, agent, firm or corporation having a legal or equitable interest in the property.

Permanent seeding means the establishment of perennial vegetation on disturbed areas for periods longer than 12 months.

Permit means an official document or certificate issued by the authority having jurisdiction that authorizes performance of a specified activity.

Person means an individual, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Precipitation means a process by which water in liquid or solid state (rain, sleet, snow) is discharged out of the atmosphere upon a land or water surface.

Premises means a lot, plot or parcel of land, easement or public way, including any structures thereon.

Qualified design professional means someone who is trained and highly qualified in their field such as horticulturists, landscapers, various design specialists and technicians.

Registered design professional means a qualified design professional who is normally certified and/or degreed as an engineer, landscape architect, arborist, forester, biologist, erosion and sediment control specialist, etc.

Rill erosion. See "erosion."

Rock check structures. See "check dam."

Scarify means roughing the land surface.

Scour means the clearing and digging action of flowing water, especially the erosion caused by stream water in sweeping away sediment from the streambed and outside bank of a curved channel.

Sediment means a mineral or organic material which, after being in suspension and transported from its original location by wind, water, gravity or ice, has come to rest in a new location.

Sheet erosion. See "erosion."

Sheet flow means water flowing across wide, uniform area such as a highway, parking lot, or field.

Shoreline erosion. See "erosion."

Silt means a deposition of sediment.

Silt fence means a temporary barrier consisting of a geotextile which is attached to supporting posts and trenched into the ground at the base. As the runoff water slowly filters through the geotextile, the sediment settles out on the uphill side of the silt fence.

Site means synonymous with job site.

Splash erosion. See "erosion."

Stable means non-eroding.

Stormwater management means a master plan or systems approach to the planning of facilities, programs and management organizations for comprehensive control and use of stormwater within a defined geographical area.

Suspension. See "erosion."

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Temporary seeding means the establishment of fast-growing annual vegetation to provide economical erosion control for up to 12 months and to reduce the amount of sediment moving off the site.

Turf reinforcement mat (TRM) means a permanent synthetic erosion control blankets which resist erosion and reinforce the root zone of vegetation to allow heavier flows without losing the vegetation or underlying soil. Increases the ability for vegetation to resist the erosive force of flowing water.

Vegetation means plant life or total plant cover of an area.

(Ord. No. 3.976, § 2, 12-12-2005)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.2200.040. Permit required; application.

- (a) *Required.* A land disturbance permit shall be required for any owner, tenant, contractor, or authorized agent who intends to do any activity that will cause land disturbance in an area greater than 200 square feet.
- (b) *Exempt from permit.* Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for the use to be in violation of the provisions of this chapter or any other laws or ordinances of the jurisdiction. Permits shall not be required for the following:
 - (1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
 - (2) Existing nursery and agricultural operations conducted as a permitted main or accessory use, such as gardens and landscaping.
- (c) *Application for permit.* To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the department of community development for that purpose. Such application shall:
 - (1) Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed work.
 - (2) Indicate the name of the owner/developer, their address, phone number(s); the contractor, contact person, address, phone number(s); and the registered design professional, contact name, address, and phone number(s).
 - (3) Be accompanied by an erosion and sediment control plan and other information as required in section 9.2200.050 et seq.
 - (4) Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the erosion and sediment control plan.
 - (5) Be signed by the applicant, or the applicants authorized agent.
 - (6) Give such other data and information as required by the building official.
- (d) *Action on application.* The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time, per city policy, after filing. If the application or construction documents do not conform to the requirements or pertinent laws, the building official shall reject such application. If the building official is satisfied that the application and construction documents conform to the requirements of this chapter, codes, laws, and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.
- (e) *Time limitation of application.* An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

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- (f) *Validity of permit.* The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on information given shall not prevent the building official from requiring the corrections of errors in the information given. The building official is also authorized to prevent land disturbance where in violation of this chapter or of any other ordinances of this jurisdiction.
- (g) *Reserved.*
- (h) *Expiration.* Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant in writing one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.
- (i) *Suspension or revocation.* The building official is authorized to suspend or revoke a permit issued under the provisions of this chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation, or any of the provisions of this chapter.
- (Ord. No. 3.976, § 2, 12-12-2005)

Sec. 9.2200.050. Erosion and sediment control plan.

- (a) *Submittal documents.*
- (1) Erosion and sediment control plan, special inspections and site observation programs, and other data shall be submitted in one or more sets with each application for a permit. A registered design professional shall prepare the erosion and sediment control plan. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.
 - (2) Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this chapter.
- (b) *Information on erosion and sediment control plan.* Erosion and sediment control plan shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Erosion and sediment control plan shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provision of this chapter and relevant laws, ordinances, rules and regulations, as determined by the building official and shall include the following:
- (1) A natural resources map identifying soils, forest cover, and resources protected under this chapter. (Map should be at a scale of no smaller than one inch = 100 feet.)
 - (2) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

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- (3) All erosion and sediment control measures necessary to meet the objectives of this chapter throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
 - (4) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilization application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
- (c) *Design requirements.* Erosion and sediment control work for which a permit has been issued shall be in accordance with approved plan and the following design requirements:
- (1) Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria of this chapter and relevant laws, ordinances, rules and regulations, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the building official. Cut and fill slopes shall be no greater than 2:1.
 - (2) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
 - (3) Erosion control requirements shall include the following:
 - a. Soil stabilization shall be completed within five days of clearing or inactivity in construction.
 - b. If seeding or another vegetative erosion control method is used, it shall become established within 14 days or the building official may require the site to be reseeded or a nonvegetative option employed.
 - c. Soil stockpiles must be stabilized or covered at the end of each workday.
 - d. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
 - e. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
 - f. Techniques that divert upland runoff past disturbed slopes shall be employed.
 - (4) Sediment control requirements shall include:
 - a. Settling basins, sediment traps, or tanks and perimeter controls.
 - b. Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
 - (5) Waterway and watercourse protection requirements shall include:
 - a. A temporary stream crossing installed and approved by the building official if a wet watercourse will be crossed regularly during construction.
 - b. Stabilization of the watercourse channel before, during, and after any in-channel work.
 - c. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.
 - (6) Construction site access requirements shall include:
 - a. A temporary access road provided at all sites.
 - b. Other measures required by the building official in order to ensure that construction vehicles do not track sediment onto public streets or washed into storm drains.
- (d) *Site plan.* The erosion and sediment control plan submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures

on the site, distances from the lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazards areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. 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.

- (e) *Examination of documents.* The building official shall examine or cause to be examined the accompanying erosion and sediment control plan and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this chapter and other pertinent laws or ordinances.
- (f) *Amended erosion and sediment control plan.* Work shall be in accordance with the approved erosion and sediment control plan, and any changes made during construction that are not in compliance with the approved erosion and sediment control plan shall be resubmitted for approval as an amended set of erosion and sediment control plan.

(Ord. No. 3.976, § 2, 12-12-2005)

Sec. 9.2200.060. Fees.

- (a) *Payment of fees.* A permit shall not be valid until deposits as set forth in section 9.2200.060 et seq. have been paid.
- (b) *Subdivision developments.* A deposit of \$50.00 per lot shall be paid to the City prior to issuance of any permits. Deposit of this type will be refunded after all lots have been sold in the subdivision and in which the owner(s) have paid their deposit as required by section 9.2200.060 et seq. The refund must be requested in writing to the building official for approval and processing within 12 months of approval of final inspection or the deposit is forfeited to the City of Gladstone.
- (c) *Residential lots.* A deposit of \$500.00 per lot shall be paid to the city prior to issuance of any permits. Deposit of this type will be refunded after a certificate of occupancy and/or a passing final inspection has been issued for all permits associated with said lot. The refund must be requested in writing to the building official for approval and processing within 12 months of approval of final inspection or the deposit is forfeited to the City of Gladstone.
- (d) *Commercial developments.* A deposit of \$5,000.00 per lot/tract shall be paid to the city prior to issuance of any permits. Deposit of this type will be refunded after a certificate of occupancy and/or a passing final inspection has been issued for all permits associated with said lot/tract. The refund must be requested in writing to the building official for approval and processing within 12 month of approval of final inspection or the deposit is forfeited to the City of Gladstone.
- (e) *Forfeiture of deposit.* The deposits required, as set forth herein shall be forfeited to the city upon the permit holder not correcting any violation as prescribed in section 9.2200.080 et seq. within prescribed time as set forth thereto.
- (f) *Subsequent violations fees.* The second and any subsequent violations of this chapter, the permit holder shall forfeit \$100.00 of required deposit to the city for administrative fees and the deposits required, as set forth herein shall be forfeited to the city upon the permit holder not correcting any violations as prescribed in section 9.2200.080 et seq. within prescribed time as set forth thereto.

(Ord. No. 3.976, § 2, 12-12-2005)

Sec. 9.2200.070. Inspections.

- (a) *Generally.* Erosion and sediment control work for which a permit is required shall be subject to inspections by the building official or designated agent who shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the erosion and sediment control plan as approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter or other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall not be valid.
- (b) *Required inspections.* The building official, upon notification shall make the inspections as set forth:
 - (1) Start of construction.
 - (2) Installation of sediment and erosion measures.
 - (3) Completion of site clearing.
 - (4) Completion of rough grading.
 - (5) Completion of final grading.
 - (6) Close of the construction season and at the restart of construction season.
 - (7) Completion of final landscaping.
- (c) *Inspection request.* It shall be the duty of the holder of the land disturbance permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access and means for inspection of such work that are required by this chapter.
- (d) *Approval required.* Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspection and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this chapter. Any portion that does not comply shall be corrected and such portion shall not proceed until authorized by the building official.

(Ord. No. 3.976, § 2, 12-12-2005)

Sec. 9.2200.080. Enforcement.

- (a) *Stop work order; revocation of permit.* In the event that any person holding a land disturbance permit pursuant to this chapter violates the terms of the permit, implements, or maintains site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, and has not corrected such violation within 48 hours of notification, the building official may suspend or revoke the land disturbance permit and any or all other permits associated with the site; and will take measures to have the violations corrected at the expenses of the permit holder. No work hereafter shall commence until the permit holder complies with the following:
 - (1) If the erosion control measures that the city took exceeds the required deposit, the permit holder shall pay the difference.
 - (2) The Permit holder shall pay a new deposit as set forth in section 9.2200.060 et seq.
- (b) *Form of notification.* Notification of violation shall be by one or more of the following:

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- (1) Phone call (leaving message on an answering machine or voice mail shall be considered as if spoken to permit holder).
 - (2) Written notice mailed, faxed, e-mailed, or served.
 - (3) Posting of property.
 - (4) Verbal notification in person with permit holder.
- (c) *Responsibility of city.* Upon inspection, if a violation is noticed, it is the responsibility of the city to notify the permit holder as soon as possible, take pictures of the violation(s), and create and maintain a written record of the violation(s).

(Ord. No. 3.976, § 2, 12-12-2005)

Sec. 9.2200.090. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done contrary to or in violation of any provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made there under, or any certificate or permit issued there under, from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 3.976, § 2, 12-12-2005)

CHAPTER 2300. DETACHED ACCESSORY STRUCTURES

Sec. 9.2300.010. General provisions.

- (a) *Scope.* The provisions of this chapter shall apply to the construction, installation, re-installation, alteration, replacement, repair, location, maintenance, and removal of detached accessory structures.
- (b) *Intent.* The purpose of this chapter is to provide minimum requirements to safeguard life, health, property, and public welfare, by regulating and controlling the construction and location of detached accessory structures to provide aesthetically compatible and pleasing urban environment, and solidify the City of Gladstone's position as a livable suburban community.

(Ord. No. 4.003, § 1, 8-14-2006)

Sec. 9.2300.020. Applicability.

This chapter shall apply to all real property within the corporate limits of the City of Gladstone, Missouri.

(Ord. No. 4.003, § 1, 8-14-2006)

Sec. 9.2300.030. 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. Where terms are not defined in this chapter and are defined in the building code or residential code, such terms shall have the meanings ascribed to them as in those codes. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Accessory structure means a structure, the use of which is incidental to that of the primary structure and which is located on the same lot.

Addition means an extension or increase in floor area or height of a building or structure.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building, existing means a building erected prior to the adoption of this chapter, or one for which a legal building permit has been issued.

Building line means the line established by laws, beyond which a building shall not extend, except as specifically provided by law.

Building official means the officer or other designated authority charged with the administration and enforcement of this chapter, or a duly authorized representative.

Construction documents means written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of a project necessary for obtaining a building permit. Construction drawings shall be drawn to an appropriate scale.

Cosmetic repairs means the renewal of any part of the exterior of an existing detached accessory structure for the purpose of its maintenance.

Design professional. See "Registered Design Professional."

Detached accessory structure means any structure of any size reasonably determined to be accessory to the primary use and detached from the primary structure. Detached accessory structure shall include but not be limited to the following: storage sheds, hobby shops, pool houses, equipment sheds, gazebos, garages and carports.

Easement means that portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on, or above a said lot or lots.

- (1) *Access* means that portion of land or property reserved for present or future use by a person or agency to access utility or drainage easements of adjacent properties. The easement shall be permitted to be for use on said lot or lots.
- (2) *Drainage* means that portion of land or property reserved for present or future storm water run-off. The easement shall be permitted to be for use under, on or on said lot or lots.
- (3) *Utility* means that portion of land or property reserved for present or future utility, such as electric, gas, water, etc. The easement shall be permitted to be for use under, on or above a said lot or lots.

Exterior property means the open space on the premises and on adjoining property under the control of owners or operator of such premises.

Floodplain means any land area susceptible to being inundated by water from any source.

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 a designated height.

Garage means an accessory structure to the primary structure used primarily for the storage of a motor vehicle.

- (1) *Attached* means the accessory structure is connected to the primary structure in an approved manner.
- (2) *Detached* means the accessory structure is a freestanding self-supporting structure.

Grade means the finished ground level adjoining the building at all exterior walls.

Height, building means the vertical distance from grade plane to the average height of the highest roof surface.

Imminent danger means a condition, which could cause serious or life-threatening injury or death at any time.

Light-framed construction means a type of construction whose vertical and horizontal structural elements are primarily formed by a system of repetitive wood or light gage steel framing members.

Lot means a portion or parcel of land considered as a unit.

Lot line means a line dividing one lot from another, or from a street or any public way.

Occupied space means the total area of all buildings or structures on any lot or parcel of ground projected on a horizontal plane, excluding permitted projections as allowed by the building code or residential code.

Owner means any person, agent, firm or corporation having legal or equitable interest in the property.

Permit means an official document or certificate issued by the authority having jurisdiction that authorizes performance of a specified activity.

Person means an individual, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Public way means any street, alley or other parcel of land open to the outside air leading to a public street, which has been deeded, dedicated or otherwise permanently appropriated to the public for public use and that has a clear width and height of not less than ten feet.

Registered design professional means an individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.

Structure means that which is built or constructed.

Yard means an open space, other than a court, unobstructed from the ground to the sky, on the same lot, which a building is situated.

- (1) *Front* means the open space on the same lot with a building used as a residence or commercial, between the front wall of the building and the line of that wall extended to the side property line of the lot, and the front property line of the lot nearest the street on which the building fronts.
- (2) *Rear* means the open space on the same lot with a building used as a residence or commercial, between the rear wall of the building and the line of that wall extended to the side property line of the lot, and the rear property line.
- (3) *Side (corner lot)* means the open space on the same lot with a building used as a residence or commercial, between the side wall of the building and the side property line of the lot nearest the street and extending from the front yard to the rear yard.
- (4) *Side (regular lot)* means the open space on the same lot with a building used as a residence or commercial, between the side wall of the building and the side property line and extending from the front yard to the rear yard.

(Ord. No. 4.003, § 1, 8-14-2006)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.2300.040. Permit required; application.

- (a) *Required.* Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of an detached accessory structure, which is regulated by this chapter, or to cause any such work to be done, shall first make application to the building official and obtain the required building, electrical, mechanical, plumbing and land disturbance permits.
- (b) *Work exempt from permit.* Exemption from the permit requirements of this chapter shall not be deemed to grant authorization of any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:
 - (1) Cosmetic repairs to existing detached accessory structures.
 - (2) Swings and other playground equipment.

(Ord. No. 4.003, § 1, 8-14-2006)

Sec. 9.2300.050. Detached accessory structures; requirements.

- (a) *General requirements.* The following apply to all residentially zoned districts.
 - (1) Only one detached accessory structure shall be permitted per lot, parcel or tract.
 - (2) Detached accessory structures greater than 200 square feet shall have an approved footing and foundation.
 - (3) Comply with land disturbance as required by title IX, Building and Construction Ordinance (BACO), chapter 2200, Erosion and Sediment Control.
 - (4) Be a minimum of 35 feet from front property line, but in no case shall it be constructed forward of the front line of the primary structure.
 - (5) Be a minimum of 25 feet from adjacent street property line on corner lots.
 - (6) Be no closer to the primary structure than ten feet.
 - (7) Be no closer to adjoining properties primary structure than 20 feet.
 - (8) No more than 30 percent of lot can be covered with structures; this includes the primary structure, decks, pool houses and detached accessory structures.
 - (9) Detached accessory structures shall not be established prior to the primary structure being present or under construction.
 - (10) Detached accessory structures shall not be located within an easement.
 - (11) A site plan shall be submitted indicating existing structures and locations of proposed detached accessory structures.
 - (12) A manufacturer's product data sheet, or architectural plans and elevations shall be submitted.
- (b) *Detached garages.* The following specific requirements apply.
 - (1) The maximum square footage shall not exceed five percent of the lot size.

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- (2) The rear and side yard setback shall be a minimum of nine feet.
 - (3) The maximum height shall be ten feet, measured from the floor surface to the underside of the ceiling member.
 - (4) Exterior materials, colors and roof pitch must match the primary structure or be closely similar thereto and be compatible in perpetuity.
 - (5) Driveway shall be constructed with approved materials and be installed so as to not adversely affect adjoining properties.
- (c) *Detached accessory structures.* The following specific requirements apply, except for detached garages.
- (1) The maximum square footage shall not exceed ten percent of the square footage of the primary structure that is above grade.
 - (2) The rear and side yard setback shall be a minimum of nine feet.
 - (3) The maximum height shall be 15 feet, measured from the floor surface to the ridge peak, but no taller than the primary structure.
 - (4) Exterior materials, colors and roof pitch must match the primary structure or be closely similar thereto and be compatible in perpetuity.

Exception: Sheds and storage structures 120 square feet or smaller and no taller than eight feet must match the color of the primary structure or be closely similar thereto.

(Ord. No. 4.003, § 1, 8-14-2006)

Sec. 9.2300.060. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to construct, enlarge, alter, repair, or maintain any detached accessory structure, or cause the same to be done contrary to or in violation of any provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made there under, or any certificate or permit issued there under, from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 4.003, § 1, 8-14-2006)

CHAPTER 2400. OUTDOOR SPECIAL EVENTS⁷⁴

⁷⁴Editor's note(s)—Ord. No. 4.271, §§ 1 and 2, adopted June 9, 2014, repealed Ch. 2400Editor's note(s)— and enacted a new chapter as set out herein. The former Ch. 2400Editor's note(s)—, §§ 9.2400.010Editor's note(s)—9.2400.090, pertained to similar subject matter and derived from Ord. No. 4.030, § 2, adopted May 14, 2007.

Sec. 9.2400.010. General provisions.

9.2400.010.1 Title. This chapter shall be known as Outdoor Special Events of the City of Gladstone, Clay County, Missouri, hereinafter referred to as "this chapter."

9.2400.010.2 Scope. The provisions of this chapter are to set forth procedures for controlling special event activities in the City of Gladstone.

9.2400.010.3 Intent. The purpose of this chapter is to allow the short-term use of land for special events, while protecting area residents and businesses from activities that may be disruptive, obnoxious or otherwise incompatible, and to safeguard life, health, property, and public welfare.

9.2400.010.4 Definition format. An alphabetical listing of all defined terms is located in section 9.2400.030. Defined terms that are pertinent to a specific division or section are also found in that section with a reference back to section 9.2400.030 for the definition. While a defined term may be listed in one section or another, the meaning is applicable throughout the chapter.

This chapter is a technical document and every word, term and punctuation mark can impact the meaning of the chapter text and the intended results. The chapter often uses terms that have a unique meaning to the chapter and the chapter meaning can differ substantially from the ordinarily understood meaning of the term as used outside of the chapter. Where understanding of a term's definition is especially key to or necessary for understanding a particular chapter provision, the term is shown in *italics* whenever it appears in the chapter.

(Ord. No. 4.271, § 2, 6-9-2014; Ord. No. 4.377, § 2(1), 12-12-2016)

Sec. 9.2400.020. Applicability.

9.2400.020.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of this chapter specify different requirements, the most restrictive shall govern.

9.2400.020.2 Other laws. The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.

9.2400.020.3 Partial invalidity. In the event that any part or provision of this chapter is held to be illegal or invalid, this shall not have the effect of making void or illegal any of the other parts or provisions.

(Ord. No. 4.271, § 2, 6-9-2014)

Sec. 9.2400.030. Definitions.

9.2400.030.1 General. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this chapter, have the meaning shown in this section.

9.2400.030.2 Interchangeability. Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

9.2400.030.3 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

9.2400.030.4 General definitions.

Agent. See "owner" and "operator."

Approved. Acceptable to the building official or authority having jurisdiction.

Attention-attracting devices. Any item designed or used to promote, advertise, demonstrate, or call attention to any commercial, residential, office, retail or service business or activity.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building official. The officer who is charged with the administration and enforcement of this chapter, or any duly authorized representative.

Business. All kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the city.

City. The City of Gladstone, Clay County, Missouri.

Commercial. The sale, purchase or exchange of goods, products, or property of any kind for profit.

Construction documents. Written, graphic and political documents prepared or assembled for describing the design, location, and physical characteristics of the elements of a project necessary for obtaining a permit.

Debris. The remains of something broken down or destroyed; and/or discarded garbage or rubbish.

Department. The community development department of the city.

Easement. That portion of land property reserved for present or future use by a person or agency other than the legal fee owner of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

Enclosed area. Any area, which is inaccessible to the public view.

Exterior property. The space on the premises and on adjoining property under the control of the owners or operators of such premises.

Garbage. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Goods. Any wares, merchandise or other property capable of being the object of a special event or sale regulated hereunder.

Jurisdiction. The governmental unit that has adopted this chapter under due legislative authority.

Litter. Rubbish, garbage and debris that have been thrown away and that are lying on the ground.

Lot. A portion or parcel of land considered as a unit.

Lot line. A line dividing one lot from another, or from a street or any public place.

Not-for-profit. Any person or organization that operates without private profit, for a public, charitable, educational, literary, fraternal, or religious purpose.

Operator. Any person who has charge, care or control of a structure or premises, which is let or offered for occupancy.

Owner. Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Parking area, commercial. An approved paved area, which is connected to the driveway approach and is used or intended for the use of temporary and transient parking of motor vehicles. Any public or private area,

under or outside of a building or structure, designed and used for the parking of motor vehicles including parking lots, garages, and legally designated areas of public streets.

Paved area. An area constructed of materials approved by the city, for the purpose of parking motor vehicles.

Permit. An official document or certificate issued by the authority having jurisdiction, which authorizes performance of a special activity.

Person. An individual, corporation, partnership or any other group acting as a unit.

Premises. A lot, plot or parcel of land, including any structures thereon.

Property. Any unimproved or improved real property, or portion thereof, located in the city including the building or structures located on the property regardless of condition.

Public way. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Registered design professional. An individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.

Rubbish. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass, crockery and dust and other similar materials.

Setback. The building line back of the street line as established in title VII, Zoning and Planning Ordinance (ZAPO), of the Code of Ordinances, as adopted by the city.

Shopping center. A concentration of retail stores and service establishments in a suburban area, with generous parking space and planned to serve the community or neighborhood.

Major. A shopping center located on a tract of ground five acres or more.

Minor. A shopping center located on a tract of ground less than five acres.

Special event. An outside or outdoor thematic entertainment, amusement, athletic event or merchandise sale that may or may not be advertised or promoted inside or outside the city, on private property or in the exclusionary use of public property, and it is reasonably foreseeable to involve a large assemblage of vehicles, and/or persons, impose traffic congestion, impact required parking, involve sanitation and/or security concerns, the erection of structures or operation of rides, games or machines that may affect the city residents' or invitees' health, safety, or welfare, or may require excessive public safety cost in responding to and/or managing the event to preserve the public peace. A special event has a specific start and stop date, and has no intervening dates of event inactivity, except for city sponsored events. A series of similar events is not considered a single event, unless conducted on consecutive days. The outdoor display or sale of merchandise or placement of vending on private property in connection with the sale of merchandise is considered a special event, unless approved through special conditions or other approved conditions respective to the zoning. A special event can include, but is not limited to:

- (1) Any organized formation, parade, procession or assembly consisting of persons, animals, vehicles or any combination thereof, which is to assemble or travel in unison on any street which does not comply with normal or usual traffic regulations or controls;
- (2) Any other organized activity conducted by a person or group for a common or collective use, purpose or benefit which involves the use of, or has impact on, other public property or facilities and the provision of the city's public safety services in response thereto;

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- (3) The display and/or sale of goods and merchandise, food, clothing, supplies, equipment, concessions, souvenirs, balloons, candy, jewelry and any other similar items outside of the primary business structure; or
 - (4) Structures, including stages, booths, canopies, awnings, risers, bleachers, fences, partitions, stands or similar construction.

Additional examples of special events include but are not limited to:

- (1) Filming;
- (2) Pyrotechnic displays of any kind;
- (3) Outdoor concerts;
- (4) Parades;
- (5) Carnivals or circuses, including any exhibition involving amusement attractions or rides, spectacles, animals, side shows, games and the like;
- (6) Fairs;
- (7) Festivals;
- (8) Block parties;
- (9) Automobile or motorcycle rallies;
- (10) Community events; and/or
- (11) Sports competition such as:
 - a. Marathons and running/walking events; or
 - b. Bicycle races or tours.

Structure. That which is built or constructed or a portion thereof.

Tenant. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Yard. An open space on the same lot with a structure.

(Ord. No. 4.271, § 2, 6-9-2014)

Sec. 9.2400.040. Permit required; application.

9.2400.040.1 Required. Any owner, tenant, person, authorized agent, or organization that intends to operate, host, or conduct a special event shall first make application to the building official and obtain a permit.

9.2400.040.2 Exempt from permit. Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for the use to be in violation of the provisions of this chapter or any other laws or ordinances of the jurisdiction. Permits shall not be required for the following:

- (1) Any not-for-profit special event less than 72 hours in duration. The building may require a special event permit if in the judgment of the building official the activity is such that review is necessary to provide for protection and to safeguard life, health, property, and public welfare of area residents and businesses.
- (2) Any event sponsored or co-sponsored by the city.

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- (3) Duly licensed auctioneers, selling at auction. (Although exempt from this section, this type of special event shall be governed by title IX, chapter 1400.)
 - (4) Persons acting in accordance with their powers and duties as public officials.
 - (5) Any business which operates pursuant to a special use permit regulating the display and sale of outdoor goods or the operation of any other special event.
 - (6) Any business which has been approved through special conditions or other approved conditions respective to their zoning. (Although exempt from this section, this type of special event shall be governed by their approved conditions as to location on property, times, dates and any other conditional requirements.)

9.2400.040.3 Application for permit. To obtain a permit, the applicant shall first file an application in writing on a form furnished by the department for that purpose. Such application shall:

- (1) Describe the land on which the proposed event shall be located by legal description, street address, or similar description that will readily identify and definitely locate the proposed location.
- (2) [Include] applicant's name, address, phone numbers and other pertinent information as deemed necessary.
- (3) [Include] property owner's name, address, phone numbers, and other pertinent information as deemed necessary.
- (4) Date(s) and time(s) of the proposed event.
- (5) Be accompanied by construction documents and other information as required by section 9.2400.060 et seq.
- (6) Be signed by the applicant or the applicant's authorized agent.
- (7) Be signed by the owner or owner's representative.
- (8) Give such other data and information as required by the building official.

9.2400.040.4 Action on application. The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application does not conform to the requirements or pertinent laws, the building official shall reject such application. If the building official is satisfied that the application conforms to the requirements of this chapter, codes, laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.

9.2400.040.5 Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or approval of, any violation of any of the provisions of this chapter or of any other ordinances of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on information given shall not prevent the building official from requiring the corrections of errors in the information given. The building official is also authorized to prevent operation of a special event, where in violation of this chapter or any other ordinances of this jurisdiction.

9.2400.040.6 Suspension or revocation. The building official is authorized to suspend or revoke a permit issued under the provisions of this chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation, or any other provisions of this chapter.

(Ord. No. 4.271, § 2, 6-9-2014)

Sec. 9.2400.050. Fees.

9.2400.050.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fees, if any, have been paid.

9.2400.050.2 Permit fee. Special events requiring a permit, a minimum fee of \$50.00, or as provided for in the adopted schedule of fees and charges, shall be paid at time application is made for each permit. Special events conducted prior to obtaining a permit, shall be assessed a penalty fee equal to the permit fee in addition to the required permit fee. *Exception:* Type 2 and type 4 permits.

9.2400.050.3 Related fees. The payment of the fees for the special event shall not relieve the applicant, property owner, or holder of permit from the payment of other fees that are prescribed by law. Applicant shall reimburse any costs incurred by the city for personnel, etc. related to the operation of a special event.

(Ord. No. 4.271, § 2, 6-9-2014; Ord. No. 4.377, § 3(1), 12-12-2016)

Sec. 9.2400.060. Special event documents.

9.2400.060.1 Submittal documents. A plan of sufficient detail showing the location of the following:

- (1) Existing and/or proposed structures;
- (2) Off-street parking;
- (3) Traffic circulation;
- (4) Outdoor display area;
- (5) Signs;
- (6) Adjacent streets; and
- (7) Property lines.

9.2400.060.2 Description of event. A description of the proposed event indicating the following information:

- (1) Any merchandise, products, or displays;
- (2) Signs;
- (3) Attention-attracting devices; and
- (4) Any other information deemed necessary by the building official to ensure compliance with this chapter and any other ordinances that may pertain to said event.

9.2400.060.3 Examination of documents. The building official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examination whether the said event indicated and described is in accordance with the requirements of this chapter and other pertinent laws or ordinances.

9.2400.060.4 Amended special event. Said event shall be in accordance with the approved permit and submitted construction documents, and any changes made after approval or during said event that are not in compliance with the approved permit and submitted construction documents shall be resubmitted for approval as an amended set of special event construction documents.

(Ord. No. 4.271, § 2, 6-9-2014)

Sec. 9.2400.070. Type of special event permit.

9.2400.070.1 General. Special events shall be classified as one of the following four types:

Type 1. Outdoor commercial events: Commercial activities not conducted in an enclosed building or regular place of business, but are conducted on the premises of said business. Such commercial activities must be associated with the ongoing primary purpose of the business.

Type 2. Outdoor fundraising activities by not-for-profits: Outdoor fundraising or noncommercial events by not-for-profit organizations.

Type 3. Outdoor community/public events: Outdoor events such as but not limited to, filming, concerts, running/walking/biking events, races or tours.

Type 4. City sponsored events: Outdoor events/activities which benefit the community and is open for participation to the general community at-large, and is conducted in whole or part on public property or public right-of-way, and the city, solely or in partnership with another entity, produces, manages and/or coordinates the event, or has agreed to provide in-kind services and/or other financing in support of the event/activity, or has agreed to lend its name in support of the event/activity, after determining that the event/activity either:

1. Provides a local commemoration of a national holiday;
2. Provides cultural or recreational experiences to city and area residents that are not otherwise routinely available in the community; or
3. Significantly enhances tourism or other forms of economic development to the city.

A type 4 outdoor special event permit application shall be approved by the city council and therefore must be submitted a minimum of 45 days prior to the event.

(Ord. No. 4.271, § 2, 6-9-2014; Ord. No. 4.377, §§ 3(2), (3), 12-12-2016)

Sec. 9.2400.080. Special event standards.

9.2400.080.1 General. Special events shall comply with the following standards:

9.2400.080.1.1 Land use compatibility. The special event must be compatible with the purpose and intent of this chapter and with surrounding land uses. The special event shall not impair the normal, safe and effective operation of a permanent use on the same site. The special event shall not endanger or be materially detrimental to the public health, safety or welfare or injurious to property or improvements in the immediate vicinity of the special event, given the nature of the activity, its location on the site and its relationship to parking and access points.

9.2400.080.1.2 Compliance with other regulations. A building and/or fire inspection may be required before any temporary structure used in conjunction with the special event is occupied or modified. All structures and the site, as a whole, shall be required to meet all applicable building code, zoning code, fire code and sign code standards and any temporary structure shall be promptly removed upon the cessation of the event. Within 48 hours of cessation of the event or use, the site shall be returned to its previous condition (including the removal of all rubbish, garbage, debris, signage, attention-attracting devices or other evidence of the special event or use). No outdoor display or structure shall occur within any required front, side, or rear yard setback.

9.2400.080.1.3 Hours of operation. The hours of operation of a special event shall be consistent with the surrounding land uses.

9.2400.080.1.4 Number and timing of outdoor special event permits. All special event permits are valid for 30 days from date of issuance. No business, not-for-profit, or any other organization, etc., can have more than three outdoor special event permits in a calendar year. No permit can run consecutively; a minimum of 30 days must transpire between permits. *Exception:* Type 4 special event permit.

9.2400.080.1.5 Traffic circulation. The special event shall not cause undue traffic congestion or accident potential given attendance and the design of adjacent streets, intersections, parking and traffic controls.

9.2400.080.1.6 Off-street parking. Off-street parking shall be provided to meet the needs of the requested special event, and the event shall not create a parking shortage for any of the other existing uses on the site. All parking surfaces used by the business and special event shall be of approved material.

9.2400.080.1.7 Public conveniences and litter control. Adequate on-site restroom facilities and on-site solid waste and recycling containers shall be required. The applicant shall calculate the demand for such facilities and how the need will be addressed.

9.2400.080.1.8 Appearances and nuisances. The special event shall be compatible in intensity, appearance, usefulness, enjoyment and value with surrounding land uses. The event shall not generate excessive noise, dust, smoke, glare, spillover lighting or other forms of environmental or visual pollution.

9.2400.080.1.9 Signs and attention-attracting devices. The city shall review all signage in connection with the issuance of the permit, although a sign permit is not required. The number and types of signs and attention-attracting devices permitted shall be evaluated on the following criteria:

1. Type;
2. Size and duration of the proposed event or use;
3. Safety considerations:
 - Site-distance setback;
 - Sidewalks in area.
4. Lighting considerations:
 - Disturbance of nearby residents;
 - Disturbance of nearby businesses; and
 - Adverse effects to traffic on adjacent streets.
5. Aesthetic concerns:
 - Appearance;
 - Illumination;
 - Number and size of signs; and
 - Number and size of attention-attracting devices.

9.2400.080.1.10 Area of parking lot dedicated to outdoor special events. No more than ten percent of the parking stalls required for the business requesting the special event permit shall be permitted for the display and demonstration of special events. No drives or maneuvering areas may be utilized within the special event area unless such drives or maneuvering areas are directly adjacent to the approved display or demonstration area, not required for emergency access, and not deemed necessary by the building official to provide proper circulation through the lot.

9.2400.080.1.11 Outdoor commercial events. All outdoor special events shall be located on an approved surface. A permanent structure occupied by an existing primary business possessing a valid business license within the city is required to operate any special event on premises within the city.

9.2400.080.1.12 Other conditions. The building official may establish any additional conditions deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including but not limited to the following:

- Time and frequency of operation;
- Limitations on signs and attention-attracting devices;
- Temporary arrangements for parking and traffic circulation;
- Requirements for screening/buffering; and
- Guarantees for site restoration and cleanup following the special event.

These special conditions may include, but shall not be limited to:

1. Modifications or restrictions to the hours of operation, duration of the event, size of the activity or other operational characteristics.
2. The posting of a performance bond to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to required special event standards and stipulations.
3. If the applicant requests the building official to provide extraordinary services or equipment or if the building official otherwise determines that extraordinary services including, but not limited to:
 - traffic control,
 - security personnel, or
 - equipment

is required to protect the public health or safety, the applicant shall be required to reimburse the city for the cost of any such services if the applicant does not provide such services. The building official may require the applicant to submit a security deposit prior to the event to ensure that the applicant complies with the provision.

4. Special events held on public property and all events assisted by the city must have a certificate of liability and personal injury insurance identifying the city as additional insured, at such levels of insurance designated by the city.

(Ord. No. 4.271, § 2, 6-9-2014; Ord. No. 4.377, §§ 3(4), (5), 12-12-2016)

Sec. 9.2400.090. Temporary suspending certain code provisions.

9.2400.090.1 Temporary suspending. The city council shall have the power to temporarily suspend the applicability of certain City Code provisions for type 4 city sponsored events by approval of the permit application, including but not limited to:

1. Section 2.120.050 Noise prohibited.
2. Section 2.130.010(2) Park rules and regulations (hours).
3. Section 2.130.010(13) Park rules and regulations (alcoholic beverages).
4. Section 2.135.040 Prohibition of smoking on or within all public park grounds.
5. Section 2.140.040 Public fireworks display prohibited, exceptions.

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6. Section 5.110.1800 Drinking in public.
 7. Section 5.160.230(a) Street use permit (street use permit allowed).
 8. Section 9.1600.110 Temporary signs.
- 9.2400.090.2 Reserved.

(Ord. No. 4.271, § 2, 6-9-2014; Ord. No. 4.377, §§ 1, 3(6), 12-12-2016)

Sec. 9.2400.100. Violations.

9.2400.100.1 *Unlawful acts.* It shall be unlawful for any person, firm or corporation to operate, maintain, or conduct a *special event* regulated by this chapter or cause same to be done, in conflict with or in violation of any provisions of this chapter.

9.2400.100.2 *Violation; penalties.* Any person, who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, for which no appeal has been taken, or who shall fail to comply with such orders affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of the City of Gladstone, Clay County, Missouri Code of Ordinances. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. No. 4.377, § 2(2), 12-12-2016)

CHAPTER 2500. FENCES AND WALLS⁷⁵

⁷⁵Editor's note(s)—Ord. No. 4.065, § 1, adopted Feb. 11, 2008, repealed ch. 9.2500, §§ 9.2500.010Editor's note(s)—0.2500.050, and enacted a new chapter as set out herein. The former ch. 9.2500 pertained to similar subject matter and derived from Ord. No. 4.030, § 1, adopted May 14, 2007.

Sec. 9.2500.010. General provisions.

- (a) *Scope.* The provisions of this chapter shall apply to the construction, installation, re-installation, alteration, replacement, repair, location, maintenance, and removal of fences and walls.
- (b) *Intent.* The purpose of this chapter is to provide minimum requirements to safeguard life, health, property, and public welfare, by regulating and controlling the construction and location of fences and walls to provide aesthetically compatible and pleasing urban environment, and solidify the City of Gladstone's position as a livable suburban community.

(Ord. No. 4.065, § 1, 2-11-2008)

Sec. 9.2500.020. Applicability.

This chapter shall apply to all real property within the corporate limits of the City of Gladstone, Missouri.

(Ord. No. 4.065, § 1, 2-11-2008)

Sec. 9.2500.030. 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. Where terms are not defined in this chapter and are defined in the building code or residential code, such terms shall have the meanings ascribed to them as in those codes. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Building means any structure used or intended for supporting or sheltering any use or occupancy.

Building line means the line established by laws, beyond which a building shall not extend, except as specifically provided by law.

Building official means the officer or other designated authority charged with the administration and enforcement of this chapter, or a duly authorized representative.

Construction documents means written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of a project necessary for obtaining a building permit. Construction drawings shall be drawn to an appropriate scale.

Court means a space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls or a building.

Deck means an exterior floor supported on at least two opposing sides by an adjacent structure, and/or posts, piers or other independent supports.

Design professional. See "Registered Design Professional."

Egress court means a court or yard, which provides access to a public way for one or more exits.

Easement means that portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on, or above a said lot or lots.

- (1) *Access* means that portion of land or property reserved for present or future use by a person or agency to access utility or drainage easements or adjacent properties. The easement shall be permitted to be for use on said lot or lots.

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- (2) *Drainage* means that portion of land or property reserved for present or future storm water run-off. The easement shall be permitted to be for use under or on said lot or lots.
- (3) *Utility* means that portion of land or property reserved for present or future utility, such as electric, gas, waster, etc. The easement shall be permitted to be for use under, on, or above a said lot or lots.

Exterior property means the open space on the premises and on adjoining property under the control of owners or operator of such premises.

Fence means an enclosure, wall or partition constructed of approved materials, which encloses or divides a lot, parcel, or tract of land.

Fence height means any fence, or wall measured from the finished grade to the top of said fence or wall.

Floodplain means any land area susceptible to being inundated by water from any source.

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 a designated height.

Imminent danger means a condition, which could cause serious, or life-threatening injury or death at any time.

Lot means a portion or parcel of land considered as a unit.

Lot line means a line dividing one lot from another, or from a street or any public way.

Owner means any person, agent, firm or corporation having a legal or equitable interest in the property

Permit means an official document or certificate issued by the authority having jurisdiction that authorizes performance of a specified activity.

Person means an individual, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Premises means a lot, plot or parcel of land, easement or public way, including any structures thereon.

Public way means any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Registered design professional means an individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.

Repair means the reconstruction or renewal of any part of an existing fence or wall for the purpose of maintenance.

Structure means that which is built or constructed or a portion thereof.

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Wall. See "fence."

Wall height. See "Fence height."

Workmanlike means executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

Yard means an open space, other than a court, unobstructed from the ground to the sky, on the same lot, which a building is situated.

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- (1) *Front* means the open space on the same lot with a building used as a residence or commercial, between the front wall of the building and the line of that wall extended to the side property lines of the lot, and the front property line of the lot nearest the street on which the building fronts.
 - (2) *Rear* means the open space on the same lot with a building used as a residence or commercial, between the rear wall of the building and the line of that wall extended to the side property lines of the lot, and the rear property line.
 - (3) *Side (corner lot - adjacent to street)* means the open space on the same lot with a building used as a residence or commercial, between the sidewall of the building and the side property line of the lot nearest the adjacent public street and extending from the front yard to the rear property line.
 - (4) *Side (corner lot)* means the open space on the same lot with a building used as a residence or commercial, between the sidewall of the building and the side property line and extending from the front yard to the rear yard.
 - (5) *Side (regular lot)* means the open space on the same lot with a building used as a residence or commercial, between the sidewall of the building and the side property line and extending from the front yard to the rear yard.

(Ord. No. 4.065, § 1, 2-11-2008)

Cross reference(s)—Definitions generally, § 1.100.020Cross reference(s)—.

Sec. 9.2500.040. Fences and walls.

- (a) *Generally.* Fences and walls constructed within city limits shall comply with the provisions of this section.
- (b) *Materials.*
 - (1) *General.* All materials, including fasteners, supports, ornamental decorations, etc., used in construction of fences and walls as defined herein, shall be resistant to the elements.
 - (2) *Approved.* The following materials are approved for the use in the construction of fences and walls as defined herein:
 - a. Chain link (side and rear yards only);
 - b. Split rail;
 - c. Wood (fabricated primarily as fencing materials);
 - d. Plastic (fabricated primarily as fencing materials);
 - e. Vinyl (fabricated primarily as fencing materials);
 - f. Masonry;
 - g. Stone;
 - h. Stucco;
 - i. EFIS;
 - j. Split face block; and
 - k. Ornamental iron.
 - (3) *Prohibited.* The following materials, but not limited to, shall be prohibited in the construction or use with fences and walls as defined herein:

- a. Chain link (Front yard only);
- b. Metal;
- c. Razor wire (concertina wire);
- d. Barb wire;
- e. Electric; and
- f. Cinder block.
- g. Exception: Barbed wire fences may be used as part of security fences in commercially zoned districts, lots used for a public or private utility facility or other public uses. Such fences shall not be located in a front yard or side yard adjacent to a public street. All barbed wire shall be placed no less than seven feet above the finished grade and shall extend inward toward the interior of the lot.

(c) *Construction requirements.*

- (1) Fences and walls can be installed up to the property line; but all posts, bases and other structural parts, shall be located completely within the boundaries of the lot on which it is located.
- (2) All fences and walls erected adjacent to a public street shall have the finished side of the fences facing toward said street.
- (3) Fences and walls located in the front yard as defined herein, shall be constructed so as to have a four-inch minimum open spaced, picketed type, pattern.
- (4) The owner and/or occupant of the property shall maintain their fence or wall in good condition at all times. If a fence or wall is found to be in a deteriorated condition and/or in need of repair the building official or his authorized agent may order the fence or wall to be repaired, replaced or removed depending upon the condition of the fence or wall. Such order shall be in writing.
- (5) Fences or walls shall not be installed in or through a storm water detention basin, retention pond, storm water easement or flood plain.
- (6) Fences or walls installed in or through a utility easement shall be at the responsibility of the property owner and any repairs required after a utility company or the city has been in shall be the responsibility of the property owner.

(d) *Fence and wall height requirements.*

Maximum Allowable Fence/Wall Height

Fence Location	In All Residential Zoned Districts (R-1, RP-1, RCH-1, RPCH-1, R-2, RP-2, R-3, RP-3, R-4 and RP-4)	In All Commercial Zoned Districts (C-O CP-O, C-1, CP-1, C-2, CP-2, C-3, P-3, C-4, CP-4, M-1 and MP-1) Note: Open fences adjoining residentially zoned property shall be screened with berming and/or landscaping or other methods as approved.
Regular Lot		
Figure FW2500.1 - Front Yard Figure FW2500.2 - Side and Rear Yard	36 inches Six feet, up to eight feet w/permit	36 inches Six feet, up to 12 feet w/permit

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Corner Lot (Parallel)		
Figure FW2500.3 - Front Yard	36 inches	36 inches
Figure FW2500.3A - Side Yard (Adjacent to Street)	48 inches	48 inches
Figure FW2500.4 - Side and Rear Yard	Six feet, up to eight feet w/permit	Six feet, up to 12 feet w/permit
Corner Lot (Angle)		
Figure FW2500.5 - Front Yard	36 inches	36 inches
Figure FW2500.5A - Side Yard (Adjacent to Street)	48 inches	48 inches
Figure FW2500.6 - Side and Rear Yard	Six feet, up to eight feet w/permit	Six feet, up to 12 feet w/permit

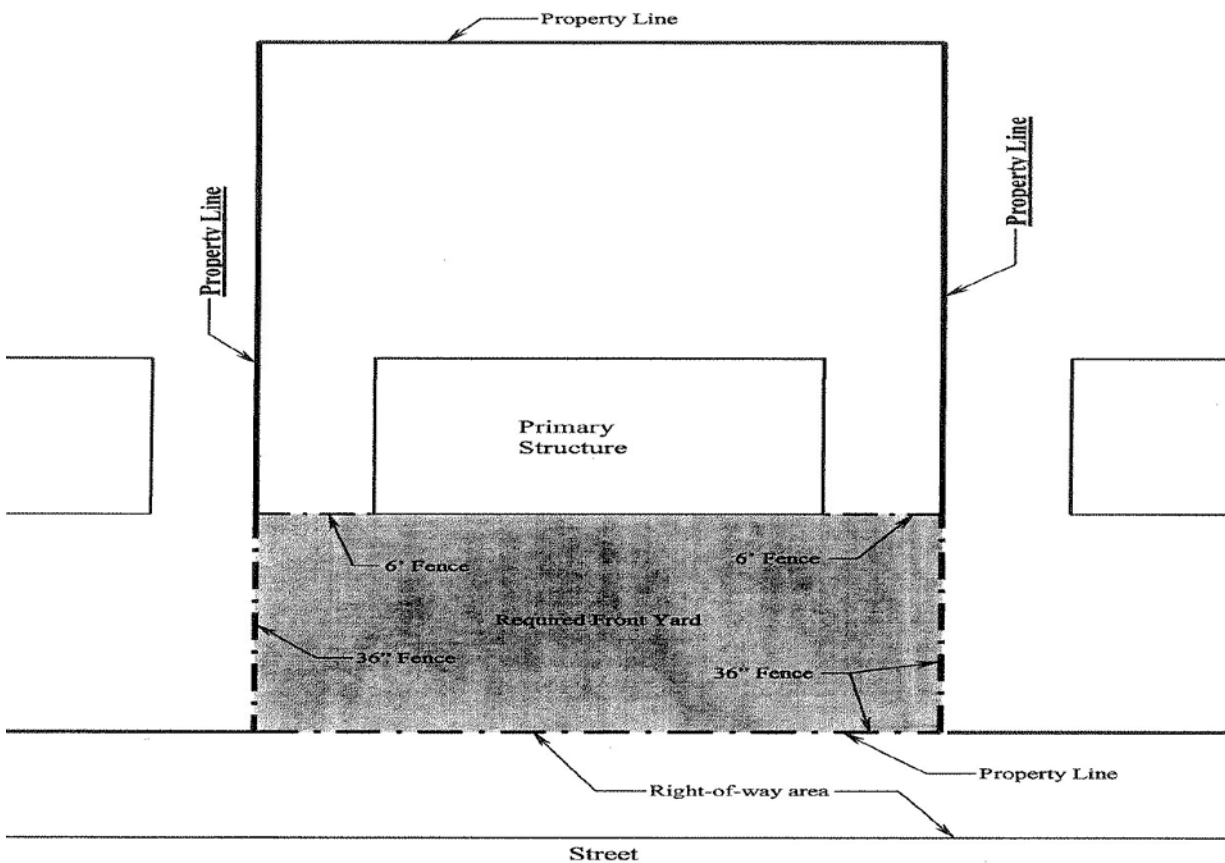


Figure FW2500.1: Required Front Yard for Regular Lot

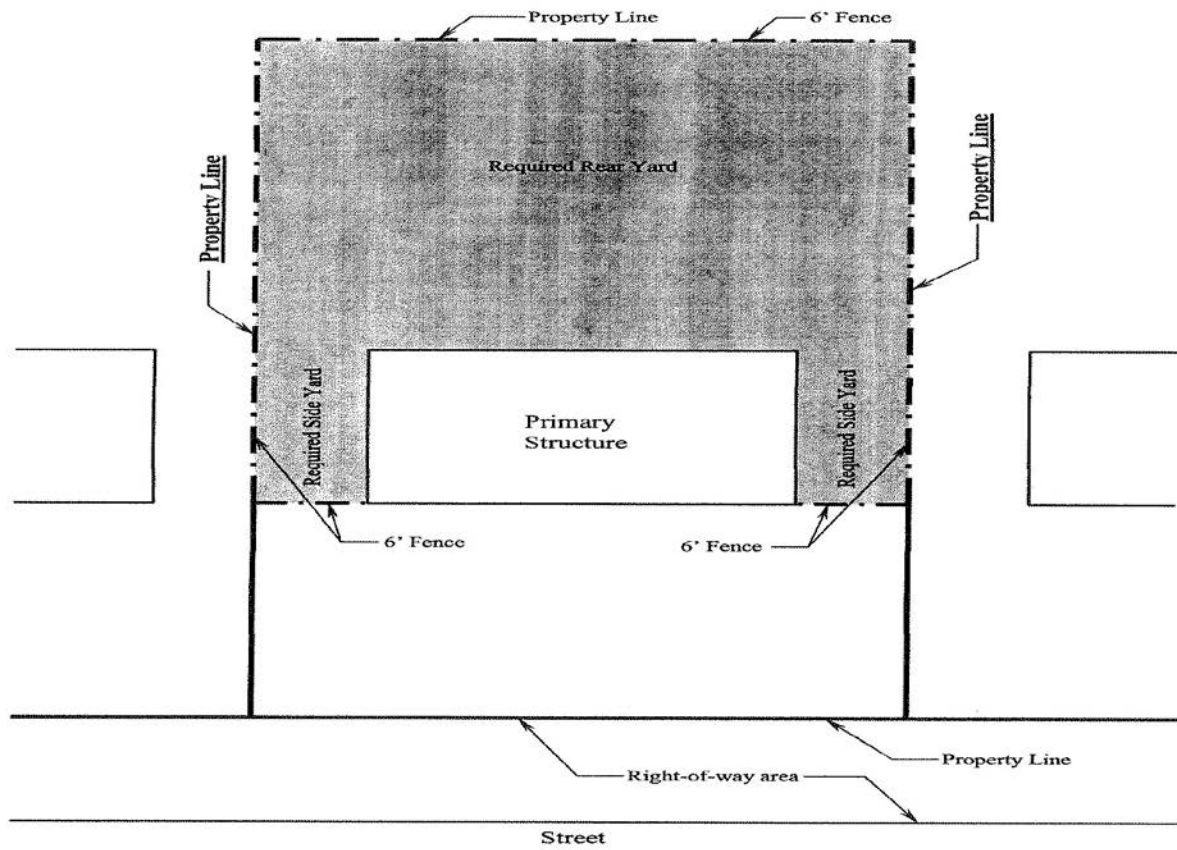


Figure FW2500.2: Required Side and Rear Yard for Regular Lot

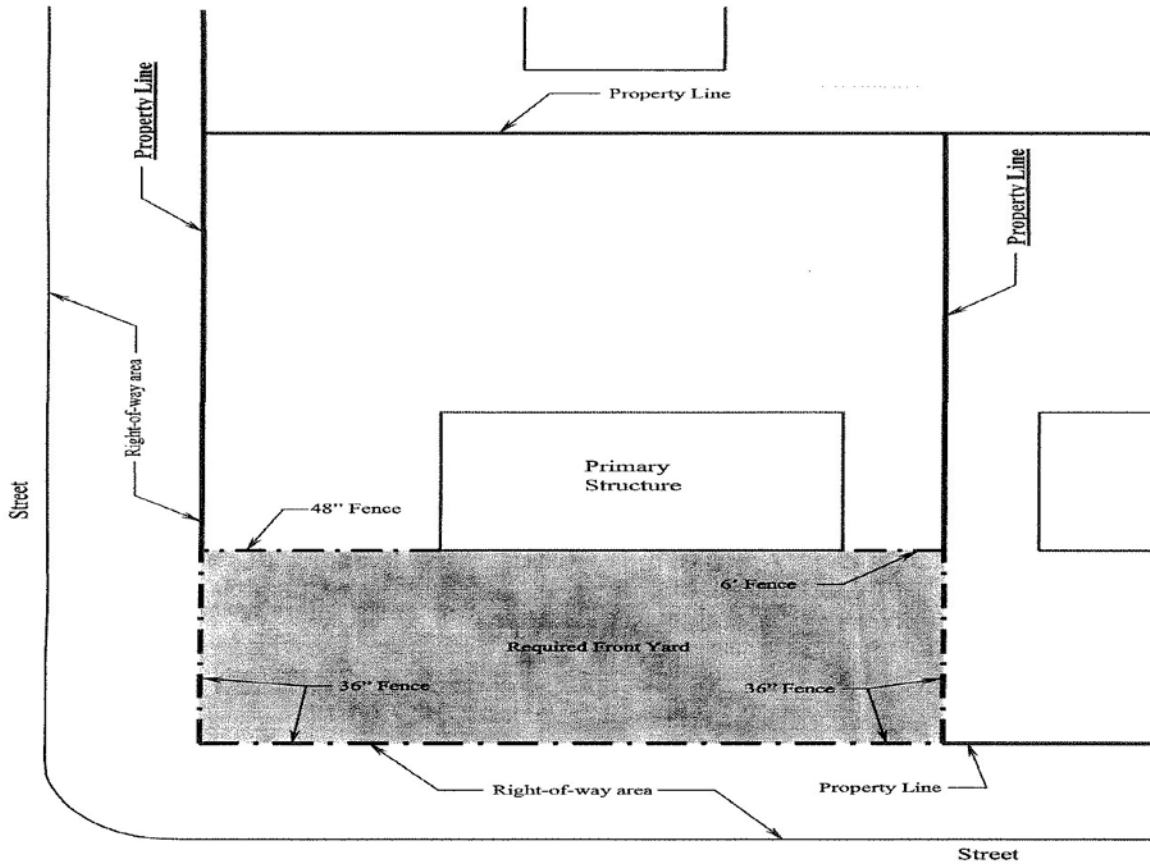


Figure FW2500.3: Required Front Yard for Corner Lot (Parallel)

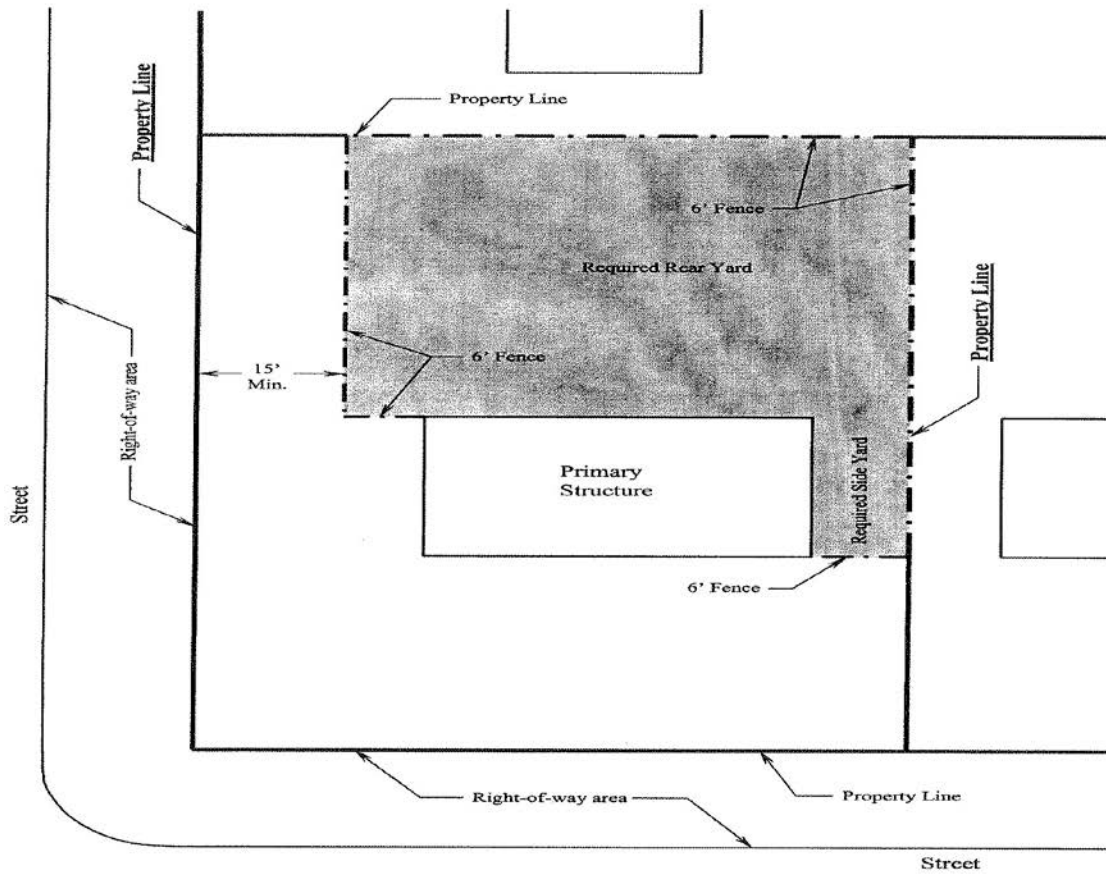


Figure FW2500.4: Required Side and Rear Lot for Corner Lot (Parallel)

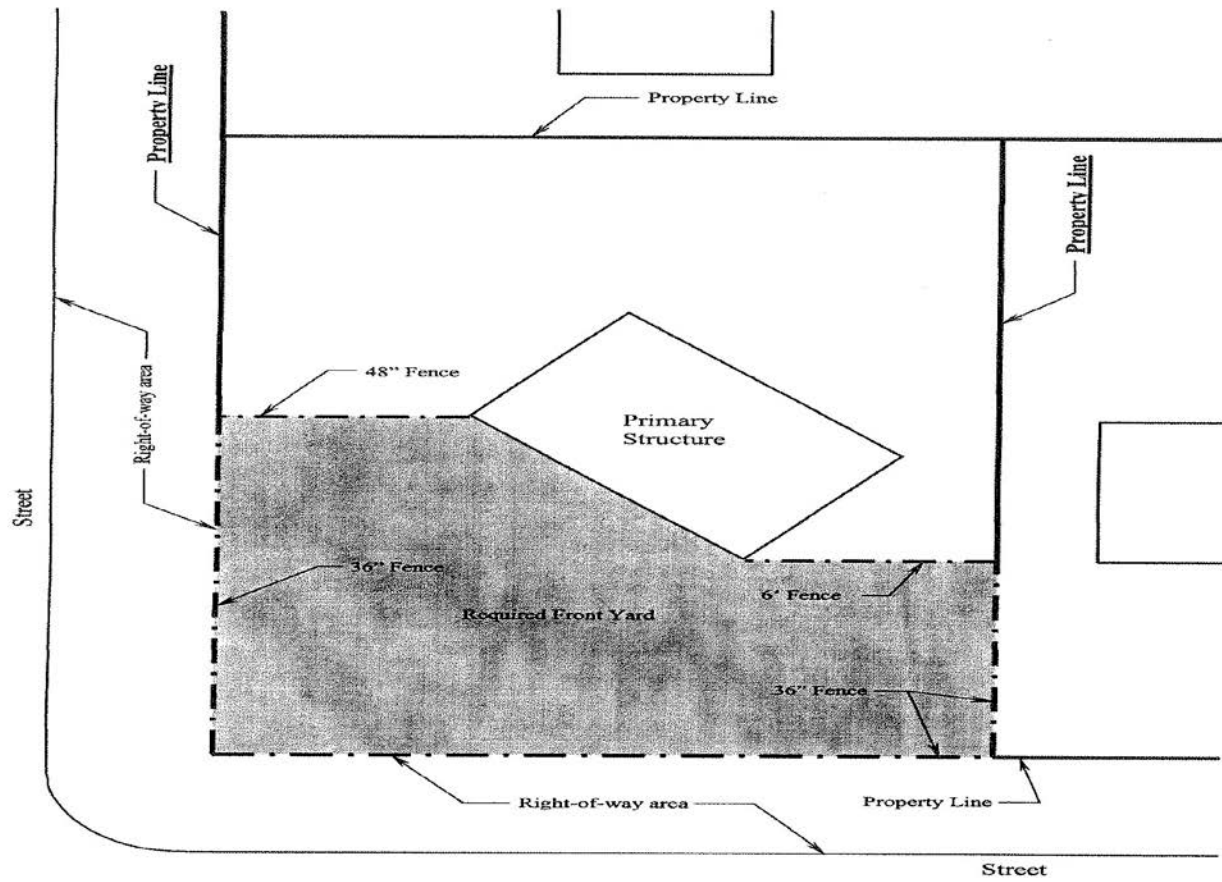


Figure FW2500.5: Required Front Yard for Corner Lot (Angle)

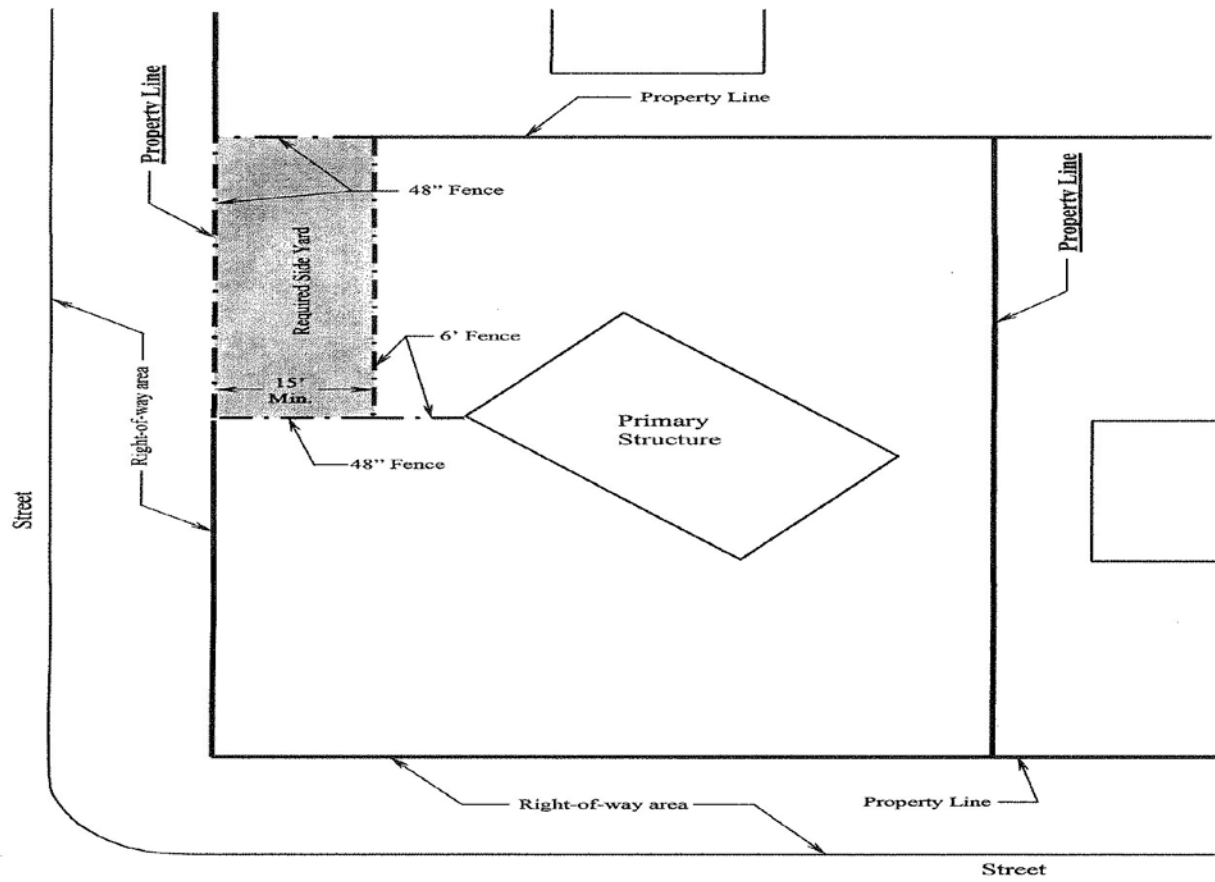


Figure FW2500.5A: Required Side Yard (adjacent to street) for Corner Lot (Angle)

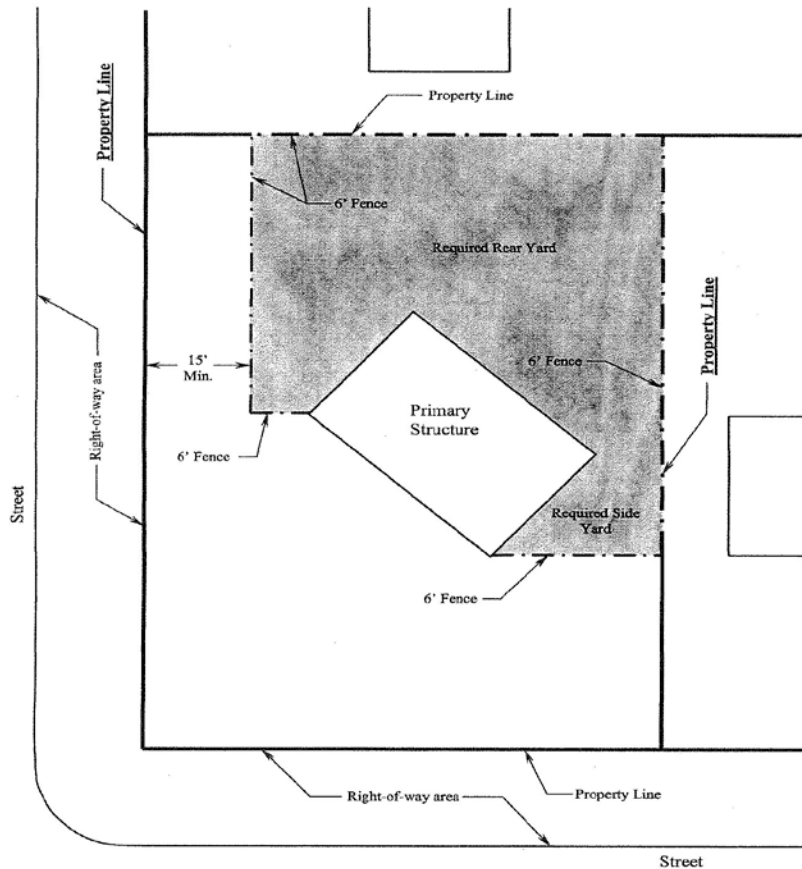


Figure FW2500.6: Required Side and Rear Yard for Corner Lot (Angle)

(Ord. No. 4.065, § 1, 2-11-2008)

Sec. 9.2500.050. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to install, alter, repair or move and fence or wall; or cause the same to be done, in conflict with or in violation of any provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made there under, or any certificate or permit issued there under, from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable

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time; and when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 4.065, § 1, 2-11-2008)

CHAPTER 2600. ABANDONED/VACANT PROPERTY REGISTRATION⁷⁶

⁷⁶Editor's note(s)—Ord. No. 4.230, adopted Feb. 25, 2013, repealed ch. 2600Editor's note(s)— and enacted a new chapter as set out herein. The former ch. 2600Editor's note(s)—, §§ 9.2600.010Editor's note(s)—— 9.2600.100, pertained to similar subject matter and derived from Ord. No 4.092, § 1, adopted Dec. 8, 2008.

Sec. 9.2600.010. General provisions.

- (1) *Title.* These regulations shall be known as the Abandoned/Vacant Property Registration of the City of Gladstone, Clay County, Missouri, hereinafter referred to as "this chapter."
- (2) *Scope.* The provisions of this chapter shall apply to all existing residential and nonresidential properties and all existing premises.
- (3) *Intent.* This chapter shall be construed to secure its express intent, which is to provide requirements for abandoned and vacant residential and nonresidential properties and premises.
- (4) *Severability.* If a section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. No. 4.230, § 2, 2-25-2013)

Sec. 9.2600.020. Applicability.

- (1) *Generally.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this chapter and any ordinance, regulation or requirement, the provisions of this chapter shall apply. Where, in a specific case, different sections of this chapter specify different requirements, the most restrictive shall govern.
- (2) *Existing remedies.* The provisions of this chapter shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure, which is dangerous, unsafe and/or insanitary.

(Ord. No. 4.230, § 2, 2-25-2013)

Sec. 9.2600.030. Definitions.

- (1) *Scope.* Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings shown in this section.
- (2) *Interchangeability.* Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.
- (3) *Terms not defined.* Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

Abandoned. A property that is vacant and is under a current notice of default and/or notice of trustee's sale, pending tax assessor's lien sale, or a property that has been the subject of a foreclosure sale where the title was retained by or transferred to the beneficiary of the deed of trust involved with the foreclosure, or a property transferred under a deed in lieu of foreclosure/sale.

Accessible property. A property that is accessible through a compromised, breached or broken gate, fence, or other entry point.

Beneficiary. A lender under a note secured by a deed of trust.

Building official. The officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

City. The City of Gladstone, Clay County, Missouri.

Days. Consecutive calendar days.

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Deed of trust. An instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition includes any subsequent deeds of trust.

Deed in lieu of foreclosure or sale. A recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

Default. The failure to fulfill a contractual obligation, monetary or conditional.

Dwelling. A building, or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, multiple dwellings, mobile homes, house trailers, boarding and lodging houses, apartment houses, and apartment hotels, but not hotels, motels, recreational vehicles, or 5th wheels unless they are being used legally as a primary residence.

Evidence of vacancy. Any condition that on it's own, or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include but are not limited to, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds or shutters, the absence of furnishings or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents or government employees that the property is vacant.

Foreclosure. The process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt of the trustor (borrower) under deed of trust defaults.

Garbage. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Local. Within 40 road/driving miles distance of the subject property.

Mortgagee. The creditor, including but not limited to, service companies, lenders in a mortgage agreement and/or any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

Nonresidential property. Any property used or intended to be used for anything other than residential property as defined herein.

Notice of default. A notice that a default has occurred under deed of trust as provided for in RSMo 408.554.

Out of area. Excess of 40 road/driving miles distance of the subject property.

Owner. Any person, co-partnership, agent, operator, firm, association, corporation, or fiduciary having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Owner of record. The person having recorded title to the property at the point in time the record is provided by the Clay County Records Office.

Premises. A lot, plot or parcel of land, easement or public way, including any structures thereon.

Property. Any unimproved or improved real property, or portion thereof, located in the City of Gladstone, including the buildings or structures located on the property regardless of condition.

Registered representative. The person designated by a beneficiary/trustee or property owner as the beneficiary/trustee or property owner's representative for purposes of accepting notice, service, and summons on behalf of the beneficiary/trustee or property owner and for otherwise ensuring compliance with the requirements of this chapter.

Residential property. Any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

Rubbish. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass, crockery and dust and other similar materials.

Securing. Such measures as may be directed by the building official or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair or boarding of doors, windows, or other openings.

Stagnant water. Water in swimming pools and/or spas in which mosquitoes, flies, or other insects may multiply).

Trustee. The person, firm, or corporation holding a deed of trust on a property.

Trustor. A borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

Vacant. A building, structure or premises that is not legally occupied.

(Ord. No. 4.230, § 2, 2-25-2013)

Sec. 9.2600.040. Registration.

- (1) *Abandoned properties.* Any beneficiary/trustee who holds a deed of trust on a property located within the city shall cause an inspection to be performed on the property that is the security for the deed of trust within 14 days of issuing a notice of default to the trustor; or any property that has been subject of a foreclosure sale where title to the property was transferred to the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.
 - (a) If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the beneficiary/trustee shall, within ten days of the inspection, register the property with the building official of his or her designee on forms provided by the city.
 - (b) The registration shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee and P.O. Box if applicable, a direct contact name and phone number of the beneficiary/trustee; the name, address, and telephone number of the local property management company, licensed with the City of Gladstone, or registered representative responsible for the security, maintenance, and marketing of the property. Any changes of the information in the registration required hereunder shall be reported within ten days of the change.
 - (c) Abandoned properties shall remain subject to the annual registration, maintenance, and security of this chapter as long as they remain abandoned.
 - (d) Once the property is no longer abandoned or is sold, the owner must provide proof of sale or written notice and proof of occupancy to the building official or his or her designee.
- (2) *Vacant properties.* Any residential property located within the city and not governed by subsection (1) and that has been vacant for more than 45 days shall register said vacant property with the building official or his or her designee on forms provided by the city.
 - (a) The registration shall contain the name of the property owner (corporation or individual), the direct street/office mailing address of the property owner and P.O. Box if applicable, a direct contact name and phone number of the property owner, the name, address, and telephone number of the local property management company, licensed with the City of Gladstone, or registered representative

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responsible for the security, maintenance, and marketing of the property. Any changes of the information in the registration required hereunder shall be reported within ten days of the change.

- (b) Vacant properties shall remain subject to the annual registration, maintenance, and security of this chapter as long as they remain vacant.
- (c) Once the property is no longer vacant or is sold, the owner must provide proof of sale or written notice and proof of occupancy to the building official or his or her designee on form provide by the city.

(Ord. No. 4.230, § 2, 2-25-2013)

Sec. 9.2600.050. Maintenance requirements.

- (1) *Generally.* Abandoned/vacant properties subject to this chapter shall be kept in compliance with the following maintenance requirements.
 - (a) Abandoned/vacant properties shall be maintained in compliance with the City of Gladstone's adopted property maintenance code.
 - (b) Abandoned/vacant properties shall be maintained so as to have no evidence of abandonment or vacancy.
 - (c) Abandoned/vacant properties shall be maintained free of graffiti and tags by removal or painting over with an exterior paint that matches the color of the exterior of the structure.
- (2) *Rubbish and garbage.* The exterior of all abandoned/vacant properties and premises shall be free from any accumulation of rubbish and garbage.

Upon failure of the owner or agent having charge of the property to remove any and all rubbish and garbage from the exterior property and premises after the service of a notice of violation, they may be subject to prosecution in accordance with section 9.2600.100 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and remove any and all rubbish and garbage thereon, and the cost of such removal and administrative fees shall be paid by the owner or agent responsible for the property. If not paid by owner or agent responsible for the property, the cost of such abatement and other associated costs shall be assessed on the owner's property tax notice.

- (3) *Swimming pools.* All abandoned/vacant properties and premises that have a swimming pool and/or spa shall keep said swimming pool and/or spa free from stagnant water.

Upon failure of the owner or agent having charge of the property to maintain a swimming pool and/or spa free of stagnant water from the swimming pool and/or spa after the service of a notice of violation, they may be subject to prosecution in accordance with section 9.2600.100 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and discharge the water from said swimming pools and/or spa and the cost of such removal and administrative fees shall be paid by the owner or agent responsible for the property. If not paid by owner or agent responsible for the property, the cost of such abatement and other associated costs shall be assessed on the owner's property tax notice.

(Ord. No. 4.230, § 2, 2-25-2013)

Sec. 9.2600.060. Security requirements.

- (1) *Generally.* Abandoned/vacant properties subject to this chapter shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes without limitation, the closure and locking of

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windows, doors (walk-through, sliding, and garage), gates, pet doors, and any other opening of such size that may allow a child to access the interior of any building or structure, or portion thereof.

- (2) *Open/abandoned or vacant building or structure.* Any building or structure, or portion thereof, which has broken window(s), door(s) kicked in, or open to or sign of unauthorized or unlawful entry, is hereby declared to constitute a nuisance.

Any building or structure, or portion thereof, that is inspected and is found to have broken window(s), door(s) kick in, or open to or signs of unauthorized or unlawful entry, will be posted giving the owner or agent having charge of the property 72 hours to board-up or otherwise secure the property. The ~~director of public safety~~**Fire Chief** may request an expedited board-up, in writing, if the ~~director of public safety~~**Fire Chief** determines that the structure is an immediate threat to the public's safety, health, and welfare.

Upon failure of the owner or agent having charge of the property to board-up the abandoned/vacant building or structure, or portion thereof, after the posting of a notice of violation, they may be subject to prosecution in accordance with section 9.2600.100 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and board-up the abandoned/vacant building or structure, or portion thereof, and the cost of such work and administrative fees shall be paid by the owner or agent responsible for the property. If not paid by the owner or agent responsible for the property, the cost of such work and other associated cost shall be assessed on the owner's property tax notice.

- (3) *Boarding standard.* Any building or structure, or portion thereof being boarded-up will be done in accordance with Appendix A of the 2012 International Property Maintenance Code.

(Ord. No. 4.230, § 2, 2-25-2013)

Sec. 9.2600.070. Compliance with other authority.

The requirements of this chapter are in addition to any other maintenance and security measures required by the city's Code of Ordinances. The requirements of this chapter shall not serve to lessen or abrogate any other applicable provisions of the city's Code of Ordinances.

(Ord. No. 4.230, § 2, 2-25-2013)

Sec. 9.2600.080. Inspections.

The community development department shall have the authority and the duty to inspect properties subject to this chapter for compliance and to issue citations for any violations. The community development department shall have the discretion to determine when and how such inspections are to be made, provided that their policies are reasonably calculated to ensure that this chapter is enforced.

(Ord. No. 4.230, § 2, 2-25-2013)

Sec. 9.2600.090. Enforcement and penalties.

- (1) *Registration.* Failure to initially register with the city within the time frame required is punishable by a minimum fine of \$250.00.
- (2) *Changes to registration.* Failure to report changes to registration information within time frame required is punishable by a minimum fine of \$250.00.
- (3) *Annual registration.* Failure to register annually is punishable by a minimum fine of \$250.00.

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- (4) *Failure to comply.* Failure to comply with this chapter or any order pursuant to this chapter is punishable by the city condemning the property as a dangerous building and proceeding with demolition of all structures on said premises.

(Ord. No. 4.230, § 2, 2-25-2013)

Sec. 9.2600.100. Violations.

- (1) *Unlawful acts.* It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provisions of this chapter.
- (2) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificates or permits issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeal, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided for in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each ten days that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. No. 4.230, § 2, 2-25-2013)

CHAPTER 2700. SUMP PUMPS AND GROUND WATER STANDARDS

Sec. 9.2700.010. General provisions.

- (a) *Scope.* The provisions of this chapter set forth regulations for controlling the discharge of sump pumps or other ground water conveyance systems, in the City of Gladstone.
- (b) *Intent.* The purpose of this chapter is to provide rules, regulations, and uniform requirements governing the use, installation, and discharge of sump pumps or other groundwater conveyance systems. This is to prevent the introduction of clean surface water, including but not limited to, water from roof or cellar drains, springs, basement sump pumps, and foundation drains into the sanitary sewer system.

(Ord. No. 4.175, § 1, 1-24-2011)

Sec. 9.2700.020. Applicability.

This chapter shall apply to all real property within the corporate limits of the City of Gladstone, Missouri and all real property not within the corporate limits of the City of Gladstone, Missouri but connected to the city's sanitary sewer main.

(Ord. No. 4.175, § 1, 1-24-2011)

Sec. 9.2700.030. 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. Where terms are not defined in this chapter and are defined in the residential code or plumbing code, such term shall have the meaning

ascribed to them as in those codes. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Approved means approved by the building official or other authority having jurisdiction.

Area drain means a receptacle designed to collect surface or storm water from an open area.

Building drain means that part of the lowest piping of a plumbing system that receives the discharge from soil, waste and other plumbing pipes inside and that extends 30 inches in a developed length of pipe beyond the exterior walls of the building and conveys the discharge to the building sewer.

Building gravity means a discharges system that drains by gravity into the building sewer.

Building official means the officer or other designated authority charged with the administration and enforcement of this chapter, or a duly authorized representative.

Building sewer means that part of the plumbing system that extends from the end of the building drain and conveys the discharge to a public sewer, private sewer, individual sewage disposal system or other point of disposal.

Building subdrain means that portion of a drainage system that does not discharge by gravity into the building sewer.

Conductor means a pipe inside the building that conveys surface storm water from the roof to a storm or combined building drain.

Discharge pipe means a pipe that conveys the discharge from plumbing fixtures or appliances.

Drainage system means piping within a public or private premises that conveys sewage, rainwater or other liquid wastes to a point of disposal. A drainage system does not include the mains of a public sewer system or a private or public sewage treatment or disposal plant.

Leader means an exterior drainage pipe for conveying storm water from roof or gutter drains to an approved means of disposal.

Lot means a parcel of land occupied or to be occupied by one building, or unit group of buildings, and the accessory buildings or use customarily incident thereto.

Owner means any person, agent, firm or corporation having a legal or equitable interest in the property.

Person means an individual, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Premises means a lot, plot or parcel of land, easement or public way, including any structures thereon.

Public sewer means a common sewer directly controlled by public authority.

Rain garden means a landscaping feature that is planted with native perennial plants and is used to manage stormwater runoff.

Roof drain means a drain installed to receive water collecting on the surface of a roof and to discharge such water into a leader or a conductor.

Sanitary means a drainage system that carries waste and sewage and excludes storm, surface and ground water.

Sanitary sewer system means a sewer that carries sewage and excludes storm, surface and ground water.

Sewage means any liquid waste containing animal or vegetable matter in suspension or solution, including liquids containing chemicals in solution.

Sewage ejectors means a device for lifting sewage by entraining the sewage in a high-velocity jet of steam, air or water.

Sewage pump means a permanently installed mechanical device for removing sewage or liquid waste from a sump.

Storm means a drainage system that carries rainwater, surface water, subsurface water and similar generally clean liquid wastes.

Storm sewer means a sewer that conveys rainwater, surface waster, subsurface water and similar generally clean liquid wastes.

Sump pump means a pump installed to empty a sump pit. These pumps are used for removing storm water only. The pump is selected for the specific head and volume of the load and is usually operated by level controllers.

Sump pump discharge system means the sump pit, sump pump, and discharge pipe.

Tenant means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

(Ord. No. 4.175, § 1, 1-24-2011)

Sec. 9.2700.040. Permit required; application.

- (a) *Required.* Any owner, tenant, or authorized agent who intends to install a sump pump discharge system shall first make application to the building official and obtain a permit.
- (b) *Exempt from permit.* Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for the use to be in violation of the provisions of this chapter or any other laws or ordinances of the jurisdiction. Permits shall not be required for the following:
 - (1) Maintenance of an existing sump pump discharge system.
- (c) *Application for permit.* To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the department of community development for that purpose. Such application shall:
 - (1) Describe the premises for which the sump pump is being installed by legal description, street address, or similar description that will readily identify and definitely locate the premises location.
 - (2) Be signed by the applicant, or the applicant's authorized agent.
 - (3) Give such other data and information as required by the building official.
- (d) *Action on application.* The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application does not conform to the requirements or pertinent laws, the building official shall reject such application. If the building official is satisfied that the application conforms to the requirements of this chapter, codes, laws, and ordinances applicable thereto, the building official shall issue a permit therefore as soon as practicable.
- (e) *Validity of permit.* The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on information given shall not prevent the building official from requiring the corrections or errors in the information given. The building official is also authorized to prevent use of sump pumps, where in violation of this chapter or of any other ordinances of this jurisdiction.

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- (f) *Suspension or revocation.* The building official is authorized to suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinances or regulations, or any of the provisions of this chapter.

(Ord. No. 4.175, § 1, 1-24-2011)

Sec. 9.2700.050. Permit conditions.

- (a) *Length of permit.* Permits for a sump pump discharge system shall be valid for 30 days from date of issuance.
- (b) *Expired permit.* A permit that has expired and/or no inspection approving the installation of said sump pump discharge system shall be considered in violation of this chapter.

(Ord. No. 4.175, § 1, 1-24-2011)

Sec. 9.2700.060. Fees.

- (a) *Payment.* A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fees, if any, have been paid.
- (b) *Permit fees; new installation.* A \$25.00 fee shall be paid for each sump pump discharge system requiring a permit. Sump pump discharge systems installed prior to obtaining a permit, will be subject to penalty in double the amount of the permit fee.
- (c) *Permit fees; existing systems.* Sump pump discharge systems installed prior to the adoption of this chapter and in violation of this chapter shall obtain a no fee permit to bring the existing sump pump discharge system into compliance with this chapter.
- (d) *Related fees.* The payment of the fee for the sump pump discharge system permit shall not relieve the applicant or holder of permit from the payment of other fees that are prescribed by law.

(Ord. No. 4.175, § 1, 1-24-2011)

Sec. 9.2700.070. Discharge prohibited.

Except as otherwise expressly authorized in this chapter, no ponds, water fountains, water from any roof or cellar, surface, groundwater, sump pumps, swimming pools, or other natural precipitation shall be discharged into the sanitary sewer system.

(Ord. No. 4.175, § 1, 1-24-2011)

Sec. 9.2700.080. Discharge of sump pumps.

All buildings or structures, both residential and commercial, which require, because of infiltration of water into the basement, crawl space, and the like; or for any other reason have a sump pump discharge system shall have a permanently install discharge line, which shall at no time discharge water into a sanitary sewer system. A permanent installation shall be one, which provides for year round discharge capability to any of the following:

- (1) *Drainage ditch.* Sump pump discharge systems may discharge to a drainage ditch in the front yard when available and feasible.

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- (2) *Ground and surface.* Sump pump discharge systems may discharge on the ground or surface grade of the premises the sump pump serves. The water shall discharge a distance of not less than 36 inches from the building served. In no event shall the water be discharged as to direct water across a city sidewalk, driveway approach or onto or across an adjacent property.
 - (3) *Rain garden.* Sump pump discharge systems may discharge into a rain garden. The discharge shall terminate at a point not greater than 20 feet nor less than ten feet from the rain garden. The discharge shall not cross the adjacent property prior to entering the rain garden. The rain garden shall be of size and capacity to receive the amount of discharge of the sump pump during any given storm or storms.
 - (4) *Storm sewer or catch basin.* When approved by the City of Gladstone's community development department and public works department a sump pump discharge system may be connected to the city's storm sewer or catch basin. Connection to the storm sewer or catch basin shall be the responsibility of the homeowner and said homeowner shall bear all costs to connect the system to the storm sewer or catch basin. If the discharge system is connected to the city's storm sewer or catch basin an air gap is required outside of the structure.

Within the residential or commercial structure, the sump pump discharge system shall consist of a rigid discharge line with a check valve and a union or other approved coupling for easy disconnection for repair and replacement. There shall be no valves or quick connections that would alter the path of discharge. The discharge pipe outside of the structure can be PVC, HDPE, or other pipe designed for the use of sump pump and shall be buried a minimum of four inches below grade.

Note: At no time shall a sump pump discharge pipe be extended through, over, or beyond the city's curb and gutter.

Any one requesting an exception from this section shall file for appeal with the board of zoning and adjustments (BZA). The BZA may for good reason grant an exception to this section, but in no case allow for the connection of sump pumps to the sanitary sewer.

(Ord. No. 4.175, § 1, 1-24-2011)

Sec. 9.2700.090. Inspections.

- (a) *Generally.* Work for which a sump pump permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this chapter or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expenses entailed in the removal or replacement of any material required to allow inspection.
- (b) *Required inspections.* The building official, upon notification shall make the inspection set forth as follows:
 - (1) *Final inspection.* The final inspection shall be made after all work required by the sump pump permit is completed.
- (c) *Inspection request.* It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that is required by this code.
- (d) *Approval required.* Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspection and shall either indicate the portion of the construction that is satisfactory as

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completed, or notify the permit holder or his or her agent wherein the same fails to comply with this chapter. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

(Ord. No. 4.175, § 1, 1-24-2011)

Sec. 9.2700.100. Violations.

- (a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done contrary to or in violation of any provisions of this chapter.
- (b) *Violation; penalties.* Any person who violates a provision of this chapter or fails to comply with any order made there under, or any certificate or permit issued there under, from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that a prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 4.175, § 1, 1-24-2011)

CHAPTER 2800. ABATEMENT OF DANGEROUS BUILDINGS⁷⁷

⁷⁷Editor's note(s)—Ord. No. 4.205, adopted Feb. 13, 2012, repealed ch. 2800Editor's note(s)— and enacted a new chapter as set out herein. The former ch. 2800Editor's note(s)—, §§ 9.2800.010Editor's note(s)— 9.2800.170, pertained to similar subject matter and derived from Ord. No. 4.185, § 2, adopted March 14, 2011.

Sec. 9.2800.010. Title.

These regulations shall be known as the "Abatement of Dangerous Building Code" and may be cited as such, and will be referred to in this chapter as "this code."

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.020. Purpose and scope.

It is the purpose of this code to provide a just, equitable, and practicable method for the repair, vacation, and/or demolition of buildings and/or structures that may endanger the life, limb, health, property, safety, and/or welfare, of either the occupants or the general public. This code shall apply to all dangerous buildings, as herein defined, that exist now or that may exist in the future in the City of Gladstone, Missouri. All parts of this code shall be read in harmony with all other existing ordinances so as to give effect to both, where possible, such that this code provides additional requirements rather than replacing existing requirements.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.030. Alteration, additions, and repairs.

All buildings or structures, which are required to be repaired under provisions of this code, shall be subject to the provisions of this title.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.040. 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:]

Declaration of nuisance and order means the declaration of nuisance and order that is required to be sent pursuant to section 9.2800.090 of this code.

Interested parties means any all owner(s), occupant(s), lessee(s), mortgagee(s), agent(s), 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 where the property is located.

Order of abatement means the order of abatement that is required to be sent pursuant to section 9.2800.110 of this code.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.050. Dangerous building defined.

- (1) Any and all buildings, structures, and/or portions thereof, which have any or all of the conditions listed in the following subsections, shall be deemed a "dangerous building" for purposes of this code.
 - (a) Those having inadequate facilities for egress (including hallways, doorways, passageways, stairways, elevators, fire escapes, or other facilities for evacuation) in case of fire or panic.

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- (b) Those where the walking surface of a means of egress (including hallways, doorways, passageways, stairways, elevators, fire escapes, or other facilities for evacuation) is so warped, worn, loose, torn, or otherwise unsafe, as to not provide safe and adequate means of exit in case of fire or panic.
 - (c) Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or have insufficient strength to be reasonably safe for the purpose used. There shall be a rebuttable presumption that the provisions of this subsection are satisfied where the stress on any floor, roof, or portion thereof, due to all dead and live loads, is more than 1½ times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose, or location.
 - (d) Those that have been damaged by fire, earthquake, wind, flood, or by another cause, so that it has become dangerous to life, safety, or the general health and welfare of the occupants or the general public. There shall be a rebuttable presumption that the provisions of this subsection are satisfied where the structural strength or stability of such building, structure, or portion thereof is less than the minimum requirements of the building code for new buildings or similar structure, purpose, or location.
 - (e) Those that are likely to fail, or to become detached or dislodged, or to collapse, and thereby injure persons or damage property.
 - (f) Those of insufficient strength or stability, or which are not so anchored, attached, or fastened in place, so as to be capable of resisting a wind pressure of one-half of that specified in the building code for new buildings or similar structure, purpose, or location without exceeding the working stresses permitted in the building code for such building.
 - (g) Those that have wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
 - (h) Those that, because of dilapidation, deterioration, or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay or inadequacy of its foundation; or any other cause, are likely to partially or completely collapse.
 - (i) Those that are, for any reason, so unsafe, unsanitary, or dangerous so that they threaten the health, safety, or general welfare of the occupants or the general public.
 - (j) Those where the walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle one-third of the base.
 - (k) Those that, exclusive of the foundation, show 33 percent or more damage or deterioration of the supporting member(s), or 50 percent damage or deterioration of the non-supporting members, enclosing or outside walls or coverings.
 - (l) Those that have been so damaged by fire, wind, earthquake, or flood, or which have become so dilapidated or deteriorated as to become an attractive nuisance to children; a harbor for vagrants, criminals, or immoral persons; or as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
 - (m) Those that have been constructed, or which exist or are maintained in violation of any specific requirement or prohibition applicable thereto provided by the building regulations of this jurisdiction, as specified in the building code, or any law or ordinance of this state of jurisdiction relating to the condition, location, or structure of buildings.
 - (n) Those which, whether or not erected in accordance with all applicable laws or ordinances, have in any non-supporting part, member, or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent, of the strength, fire-resistance 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.

- (o) Those that because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, are unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease, so as to threaten the health, safety, or welfare of those occupying (or who may occupy) such building or structure.
 - (p) Those that, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electrical wiring, gas connections to heating apparatus, or other cause, are determined by the fire marshal to be a fire hazard.
 - (q) Those that are in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
 - (r) Those where any portion thereof remains on a site after the demolition or destruction of the building or structure or whenever any building structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
- (2) The above listed conditions are hereby deemed detrimental to the health, safety, and/or welfare of the city's residents, the existence of which constitutes a nuisance. However, for purposes of this code, the requirements of those housing, fire, building, or other codes, or ordinances, which are adopted by the city, together with state and/or federal requirements, shall be deemed to be competent evidence of compliance [or] noncompliance with the provisions of this code.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.060. Dangerous buildings declared a nuisance.

All dangerous buildings are hereby declared to be a public nuisance and shall be repaired, rehabilitated, demolished, or removed in accordance with the procedures specified in this code.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.070. Building official: duties.

- (1) *Inspections.* When there are reasonable grounds to believe a building or structure is a dangerous building, the building official shall inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such places to be dangerous building(s). Whenever any complaint or report is filed with the city alleging that a structure or building exists in violation of this code, such report or complaint shall be deemed to provide reasonable grounds for an inspection pursuant to this code.
- (2) *Right of entry.* When it is necessary to make an inspection to enforce the provisions of this code, or when the building official or the building official's authorized representative has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to or in violation of this code that makes the building or premises unsafe, dangerous, or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises are unoccupied, the building official 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 entry is refused, the building official may seek a search warrant or other appropriate court order as provided herein.

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- (3) A search warrant under this section is a written order by any judge in the Municipal Division, Gladstone, 7th Judicial Circuit Court of Missouri for the search or inspection of any property, the seizure of any property, or both search and seizure of any property within the limits of the city.
- (4) If a complaint in writing is filed by the building official, any police officer, or city attorney of the city, with the municipal court judge stating that he or she has probable cause to believe there exists in the premises to be described therein, a violation or violations of the provisions of the ordinance and is within the territorial limits of this city, and if such complaint is verified by the oath or affirmation stating evidential facts from which such judge determines the existence of probable cause, then such judge shall issue a search warrant directed to the authorized person to search the premises, building or structure therein described for the purposes requested and seize any specified property. Such search warrant may be executed and returned only within ten days after the date of its issuance. The person authorized to conduct the search under the warrant shall make a return promptly after concluding the search, and such return shall contain an itemization of all violations of this chapter discovered pursuant to such search. Refusal to allow entry upon presentation of a search warrant shall be an ordinance violation. Forcible entry may be permitted when authorized by the search warrant.
- (5) *Posting.* Once the building official has determined that a building or structure constitutes a dangerous building for purpose of this code, he/she shall post a notice to vacate upon such building or structure, which shall state:

DO NOT ENTER UNSAFE TO OCCUPY
It is a violation to occupy this building,
or to remove or deface this notice.
Community Development Department
City of Gladstone, Missouri

No person shall remain in or enter any building or structure that has been posted pursuant to this section, 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 has been posted until the required repairs, demolition, or removal have been completed and all provisions of the declaration of nuisance and order have been duly met.

- (6) *Declaration of nuisance and order.* When a building or structure has been inspected and has been determined to be a dangerous building, the building official shall commence proceedings to cause the repair, vacation, and/or demolition thereof, including issuance of the declaration of nuisance and order.
- (7) *Standards for vacation, repair, and/or demolition.* The building official shall follow the following standards in ordering repair, vacation, or demolition of a dangerous building:
- (a) If the dangerous building reasonably can be repaired so that it no longer will exist in violation of the terms of this code, it shall be ordered repaired.
 - (b) If the dangerous building is in such condition as to make it dangerous to the health, safety, and/or welfare of its occupants, it shall be ordered vacated and repaired.
 - (c) In all cases where a dangerous building cannot be repaired so that it no longer will exist in violation of the terms of this code, it shall be demolished.
 - (d) In all cases where a dangerous building is a fire hazard existing or erected in violation of this code or any city ordinance, or state or federal statute, it shall be ordered repaired or demolished.
- (8) *Notice to building commission.* The building official shall report to the building commission when there is any noncompliance with any notice sent or posted pursuant to this code.
- (9) *Hearing.* The building official shall appear at all hearings conducted by the building commission and testify as to the condition of the building or structure in question.

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- (10) *Interpretations.* The building official is hereby authorized to enforce the provisions of this code. The building official shall have the power to render interpretations of this code 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 code.

(Ord. No. 4.205, § 2, 2-13-2012; Ord. No. 4.222, § 2, 12-10-2012)

Sec. 9.2800.080. Building commission: duties.

- (1) Supervise all inspections required by this code and cause the building official to make inspections and perform all duties required of him/her by this code. If the building commission deems it necessary to the performance of their duties and responsibilities imposed herein; the building commission may request an inspection and report be made by any other city department or retain the services of an expert whenever the building commission deems such service necessary.
- (2) Upon report from the building official that there has been a failure to comply with a declaration of nuisance and order, the building commission shall hold a hearing as required by this code.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.090. Building commission: composition; appointment of members; terms; vacancies; chairman and other officers.

- (1) The building commission shall consist of five regular members and two alternate members, who may serve in the absence of or disqualification of regular members. The members shall be made up from the following:
 - One planning commission representative.
 - One board of zoning adjustments representative.
 - One uniform code board of appeals representative.
 - One Gladstone Neighborhood Commission representative (this representative should be a neighborhood leader).
 - One appointment from the community at large.
 - Three alternate appointments from the community at large. The role of an alternate will be to observe the hearing process and serve as a building commission member in the case of absence.
- (2) The mayor with the approval of the city council shall appoint all building commission members. Each member shall serve for three years, commencing on January 1 of the year that begins each member's term. Members are removable by the city council for cause, upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
- (3) The building commission members shall elect a chair, vice-chair and secretary to terms of one year. The chairman and other officers may serve up to three consecutive terms in a specific office, and thereafter, may be re-elected to their previous position after a lapse of one year.

(Ord. No. 4.205, § 2, 2-13-2012; Ord. No. 4.222, § 1, 12-10-2012)

Sec. 9.2800.100. Building commission: adoption of rules; conduct of meetings generally; votes necessary; minutes and records.

- (1) The building commission shall adopt rules in accordance with the provisions of this title and RSMo 536.100 et seq. Meetings of the building commission shall be held at the call of the chairperson, and at such times as the building commission may determine. Such chairperson or, in the chairperson's absence, the acting chairperson may administer oaths and compel the attendance of witnesses.
- (2) The building commission shall keep minutes of its proceedings, showing the vote of such member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city clerk, and shall be a public record.
- (3) All testimony, objections thereto and rulings thereon shall be taken down by a court reporter employed or contracted by the building commission for that purpose.
- (4) The presence of four members shall be necessary to constitute a quorum.
- (5) The concurring vote of a simple majority of the building commission members will be necessary to reverse the order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it required to pass under this title, or to effect any variation in this title.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.110. Appeals.

Any person aggrieved by an action of the building commission may appeal such decision to circuit court as provided in RSMo 536.100 to 536.140, if proper record as defined in RSMo 536.130 is maintained of the hearing; otherwise, the appeal shall be made pursuant to the procedures provided by RSMo 536.160.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.120. Declaration of nuisance and order.

- (1) *Declaration.* Once the building official has determined that the building or structure is a dangerous building under the terms of this code, he shall cause notice of such declaration to be served upon all interested parties in accordance with this section. All interested parties shall be made parties to any action pursuant to this code.

The declaration of nuisance and order shall contain:

- (a) The street address (or other description sufficient for the accurate identification) of the premises upon which the building or structure is located;
 - (b) 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;
 - (c) A statement of the remedial action(s) required to be taken as determined by the building official; and
 - (d) A statement that such remedial action(s) shall commence within a reasonable time (which shall not exceed 30 days from the date of such notice) and proceed continuously without unnecessary delay.
- (2) *Service of declaration.*

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- (a) The declaration of nuisance and order shall be sent via both first class mail (postage prepaid) and certified mail (postage prepaid) return receipt requested to the interested parties. Notice sent via the U.S. Postal Service shall be effective as the date of mailing. If the building commission learns that neither the regular mailed notice nor the certified mailed notice was received by the recipient (for any reason other than refusal), the building official may attempt to have such party personally served with such notice.
 - (b) If any one of the interested parties 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 code. Mail returned by the U.S. Postal Service marked "refused" shall constitute proof of service.
 - (c) If service cannot be had by either personal service or by certified mail, then service may be had by publication in a newspaper qualified to publish legal notices, for two successive weeks.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.130. Recordation of declaration of nuisance and order.

If compliance is not had with the declaration of nuisance and order within the time specified therein, the building official shall file in the office of the county recorder a certificate describing the property and certifying that the building is a dangerous building and that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed and the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.140. Enforcement and abatement.

- (1) If no interested party complies with the declaration of nuisance and order within the time specified therein, or upon failure of any such party to proceed continuously with such work without unnecessary delay, the building commission shall hold a full and adequate hearing on the matter, joining all interested parties. Such hearing shall be recorded in accordance with RSMo 536.130, and shall be considered a contested case for purposes of judicial review.
- (2) Written notice of such hearing shall be given at least ten days in advance of such hearing (in accordance with the service of declaration requirements of section 9.2800.090(2)) directing the interested parties to appear before the building commission on the date specified in such notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated, and/or demolished in accordance with the statement of particulars set forth in the declaration of nuisance and order.
- (3) Any party may be represented by counsel and all parties shall have an opportunity to be heard.
- (4) After the hearing, if the evidence supports a finding that the building or structure is a dangerous building, the building commission shall issue an order of abatement along with specific findings of fact, based upon competent and substantial evidence, that shows the building or structure to be a dangerous building and ordering the building or structure to be vacated, demolished and removed, or vacated and repaired. 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

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dangerous building stands. If the evidence does not support a finding that the building or structure is a dangerous building, no order shall be issued.

- (5) The written order of abatement from the building commission shall be delivered, by person or mail, to each party of the hearing, or the attorney of record. 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 order of abatement, with cost levied to the property owner, or by a lien placed upon the property.
- (6) If the city performs or contracts for abatement pursuant to subsection (5), the cost of such abatement and other associated costs shall be certified to the city clerk, who shall cause a special tax bill or special assessment against the property to be prepared and collected by the city collector or other official collecting taxes, unless the building or structure is demolished, secured or repaired by a contractor pursuant to an order issued by the city and such contractor files a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided in RSMo 429.010 to 429.360. At the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten years. The tax bill from its issuance shall be deemed a personal debt against the property owner and shall also be a lien on the property until paid.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.150. Emergencies.

In any case where it reasonably appears that there is an immediate danger to the health, safety, or welfare of any person, the building official may take emergency measures to vacate and repair or demolish a dangerous building or structure.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.160. Violations and penalties.

- (1) It shall be a violation of this code for:
 - (a) Any property owner to fail to comply with any order of either the building official or the building commission.
 - (b) Any person to occupy any building that has been posed as a dangerous building pursuant to this code.
 - (c) Any person to remove or deface any dangerous building notice that has been posted on such building until the repairs, demolition, or removal ordered have been completed and a certificate of occupancy issued pursuant to the provisions of the building code.
 - (d) Any person to obstruct, impede, or interfere with any officer, employee, contractor, or authorized representative of the city or with any person who owns or holds any estate or interest in any building that has been ordered repaired, vacated, or demolished under the provisions of this code, whenever such officer, employee, contractor, or authorized representative of the city or person having an interest or estate in such building or structure, is engaged in the work or repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.
- (2) The city shall have the right to collect fines and penalties for any violation of this code and to punish the violation thereof by a fine or imprisonment, or by both fine and imprisonment. Such fine may not exceed

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\$1,000.00; unless the owner of the property is not also a resident of the property, then such fine may not exceed \$2,000.00.

(Ord. No. 4.205, § 2, 2-13-2012)

Sec. 9.2800.170. Extension of time to perform work.

Upon receipt of an application from the person required to conform with any order and by agreement of such person to comply with such order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation, or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation, or demolition of the premises and will not in any way affect the time to appeal any order.

(Ord. No. 4.205, § 2, 2-13-2012)

TITLE X NEIGHBORHOOD PRESERVATION ORDINANCE

CHAPTER 100. GENERAL PROVISIONS

Sec. 10.100.010. General.

10.100.010.1 Title. This title shall be known and cited as Neighborhood Preservation Ordinance of the City of Gladstone, Clay County, Missouri and hereinafter referred to as "this title."

10.100.010.2 Scope. The provisions of this title shall apply to all existing Residential Group R occupancies including, among others, the use of a building or structure, or portion thereof, for sleeping purposes.

10.100.010.3 Intent. The purpose of this title is to establish minimum requirements to safeguard the public safety, health and general welfare insofar as they are affected by the continued occupancy and maintenance of Residential Group R occupancies, as classified in the current adopted International Building Code, exterior property and premises. To work with neighborhoods, assist in the empowerment of the neighborhoods, address continued occupancy and maintenance of Residential Group R occupancies, exterior property and premises.

10.100.010.4 Severability. If a section, subsection, sentence, clause, or phrase of this title is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this title.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.100.020. Authority.

10.100.020.1 City. The building official is hereby authorized and directed to enforce all the provisions of this title.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.100.030. Applicability.

10.100.030.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this title and any ordinance,

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regulation or requirement, the provisions of this title shall apply. Where in a specific case, different sections of this title specify different requirements, the most restrictive will govern.

10.100.030.2 Existing remedies. The provisions of this title shall not be construed to abolish or impair existing remedies of the jurisdiction, its officers, or agencies. Any requirement of this title that is inconsistent with any other applicable local, state, or federal law, rule or regulation, the most stringent requirement shall apply.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.100.040. Board of appeals.

10.100.040.1 Generally. In order to hear and decide appeals or orders, decisions or determinations made by the building official relative to the applications and interpretation of this title, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the city council and shall hold office at its pleasure. The board shall adopt rules and procedures for conducting its business.

10.100.040.2 Limitations and authority. An application for appeal shall be based on claim that the true intent of this title or the rules legally adopted thereunder has been incorrectly interpreted, the provisions of this title do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirement of this title.

10.100.040.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and/or training to pass on matters pertaining to building construction, neighborhoods, or property maintenance and are not employees of this jurisdiction.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.100.050. Violations.

10.100.050.1 Unlawful acts. It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provisions of this title.

10.100.050.2 Violation, penalties. Any person who violates a provision of this title or fails to comply with any order made thereunder, or any certificates or permits issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeal, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided for in section 1.100.140 of the City of Gladstone, Clay County, Missouri Code of Ordinances. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each ten days that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

CHAPTER 200. MULTI-FAMILY NEIGHBORHOODS

DIVISION 1. SCOPE AND ADMINISTRATION

PART 1. SCOPE AND APPLICATION

Sec. 10.200.101. General.

10.200.101.1 Title. This chapter shall be known as Multi-Family Neighborhoods of the City of Gladstone, Clay County, Missouri, hereinafter referred to as "this chapter."

10.200.101.2 Scope. The provisions of this chapter shall apply to all existing apartments, apartment buildings, apartment communities and associated accessory structures, accessory uses and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators, and occupants; the occupancy of existing apartments, apartment buildings, buildings, structures and premises, and for administration, enforcement, and penalties.

10.200.101.3 Intent. This chapter shall be construed to secure its express intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of apartments, apartment buildings, apartment communities, associated accessory structures, accessory uses, structures and premises. Existing apartments, apartment buildings, apartment communities, accessory structures, accessory uses, 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 herein.

10.200.101.4 Severability. If a section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.102. Applicability.

10.200.102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this chapter and any ordinance, regulation or requirement, the provisions of this chapter shall apply. Where, in a specific case, different sections of this chapter specify different requirements, the most restrictive shall govern.

10.200.102.2 Maintenance. Equipment, systems, devices, and safeguards required by this chapter or a previous regulation or code under which the apartment, apartment building, accessory structure, structure or premises was constructed, altered, or repaired shall be maintained in good working order. No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this section to be removed from or shut off from or discontinued from any occupied apartment or apartment building, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this chapter are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing apartments, apartment buildings or structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of apartments, apartment buildings, buildings, accessory structures, structures, and premises.

10.200.102.3 Application of building codes. Repairs, additions, or alterations to an apartment, apartment building, associated accessory structure, accessory uses or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Existing Building Code, International, Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Property Maintenance Code, International Residential Code, International Swimming Pool and Spa Code, and National Electric Code. Nothing in this chapter shall be construed to cancel, modify, or set aside any provisions of the zoning and planning ordinance of the city.

10.200.102.4 Existing remedies. The provisions of this chapter shall not be construed to abolish or impair existing remedies of the jurisdiction, its officers, or agencies. Any requirement of this chapter that is inconsistent with any other applicable local, state, or federal law, rule, or regulation, the most stringent requirement shall apply.

10.200.102.5 Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this chapter shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's instructions.

10.200.102.6 Historic buildings. The provisions of this chapter shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the building official to be safe and in the public interest of health, safety, and welfare.

10.200.102.7 Referenced building codes and standards. The building codes and standards referenced in this chapter shall be those that are listed in division 8 and considered part of the requirements of this chapter to the prescribed extent of each such reference and as further regulated in sections 10.200.102.7.1 and 10.200.102.7.2.

Exception: Where enforcement of a chapter provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

10.200.102.7.1 Conflicts. Where conflicts occur between provisions of this chapter and the referenced standards, the provisions of this chapter shall apply.

10.200.102.7.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this chapter, the provisions of this chapter, as applicable, shall take precedence over the provisions in the referenced code or standard.

10.200.102.8 Requirements not covered by chapter. Requirements necessary for the strength, stability, or proper operation of an existing fixture, structure, or equipment, or for the public safety, health, and general welfare, not specifically covered by this chapter, shall be determined by the building official.

10.200.102.9 Application of reference. References to division or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such division, section, or provision of this chapter.

10.200.102.10 Other laws. The provisions of this chapter shall not be deemed to nullify any provisions of local, state, or federal law.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

PART 2. ADMINISTRATION AND ENFORCEMENT

Sec. 10.200.103. Department of housing inspections.

10.200.103.1 General. The department of housing inspections is hereby created and the executive official in charge thereof shall be known as the building official.

10.200.103.2 Appointment. The building official shall be appointed by the chief appointing authority of the jurisdiction.

10.200.103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the building official shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the building official.

10.200.103.4 Liability. The building official, member of the board of appeals or employee charged with the enforcement of this chapter, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this chapter or other pertinent law or ordinance, shall not thereby be rendered liable

personally, and is hereby relieved from all personal liability for and damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this chapter shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this chapter.

10.200.103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this chapter shall be in accordance with the schedule of fee and charges as adopted by the city.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.104. Duties and powers of the building official.

10.200.104.1 General. The building official is hereby authorized and directed to enforce the provision of this chapter. The building official shall have the authority to render interpretations of this chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

10.200.104.2 Inspections. The building official shall make all of the required inspections, or shall accept reports of inspections by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

10.200.104.2.1 Public use areas. All public use areas will be inspected once every three years or upon complaint or deemed necessary by the building official. The rental agent and/or property manager will be informed when this inspection will be conducted and can be present when this inspection is conducted. Additional inspections may be conducted based on re-inspections, complaints or general follow-up. The rental agent and/or property manager will be informed of these inspections.

10.200.104.2.2 Change of occupancy. When an occupant moves out, said unit will be inspected before a new resident moves in. Any violations shall be corrected before a new resident can move in. In the event an inspector is unavailable to conduct said inspection and the apartment community does not have any outstanding life safety violations, the apartment community may allow a resident to move in upon verbal consent from the building official. The city reserves the right to inspect apartments that received verbal consent after occupancy has occurred.

10.200.104.2.3 Complaint. When an occupant makes a complaint about the unit or premises that they reside in, an inspection will be conducted. The rental agent and/or property manager will be informed when this inspection will be conducted and can be present during the inspections.

10.200.104.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this chapter, or whenever the building official has reasonable cause to believe that there exists in an apartment, apartment building, building, accessory structure, structure or upon a premises a condition in violation of this chapter, the building official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such structure or premises is occupied the building official shall present credentials to the occupant and request entry. If such apartment, apartment building, building, accessory structure, structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the apartment, apartment building, building,

accessory structure, structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

10.200.104.4 Identification. The building official shall carry proper picture identification when inspecting apartments, apartment buildings, buildings, accessory structures, structures or premises in the performance of duties under this chapter.

10.200.104.5 Notices and orders. The building official shall issue all necessary notices or orders to ensure compliance with this chapter.

10.200.104.6 Department records. The building official shall keep official records of all business and activities of the department specified in the provisions of this chapter. Such records shall be retained in the official records for the period required for retention of public records.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.105. Approval.

10.200.105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this chapter, the building official shall have the authority to grant modifications for individual cases upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this chapter impractical and the modification is in compliance with the intent and purpose of this chapter and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

10.200.105.2 Alternative materials, methods, and equipment. The provisions of this chapter are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this chapter, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this chapter, and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

10.200.105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this chapter, or evidence that a material or method does not conform to the requirements of this chapter, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

10.200.105.3.1 Test methods. Test methods shall be as specified in this chapter or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall be permitted to approve appropriate testing procedures performed by an approved agency.

10.200.105.3.2 Test reports. Reports of tests shall be retained by the building official for the period required for retention of public records.

10.200.105.4 Used material and equipment. The use of used materials, which meet the requirements of this chapter for new materials, is permitted. Materials, equipment, and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition, and approved by the building official.

10.200.105.5 Approved materials and equipment. Materials, equipment, and devices approved by the building official shall be constructed and installed in accordance with such approval.

10.200.105.6 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this chapter, shall consist of valid research reports from approved sources.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.106. Violations.

10.200.106.1 Unlawful acts. It shall be unlawful for a person, firm, or corporation to be in conflict with or in violation of any of the provisions of this code.

10.200.106.2 Notice of violation. The building official shall serve a notice of violation or order in accordance with section 10.200.107.

10.200.106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with section 10.200.107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the building official shall institute the appropriate proceeding at law or equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this chapter or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

10.200.106.4 Violation penalties. Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificates or permits issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeal, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided for in section 1.100.140 of this Code. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each ten days that a violation continues after due notice has been served shall be deemed a separate offense.

10.200.106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building structure or premises.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.107. Notices and orders.

10.200.107.1 Notice to person responsible. Whenever the building official determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in sections 10.200.107.2 and 10.200.107.3 to the person responsible for the violation as specified in this chapter. Notices for condemnation procedures shall also comply with section 10.200.108.3.

10.200.107.2 Form. Such notice prescribed in section 10.200.107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.

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3. Include a statement of the violation or violations and why the notice is being issued.
 4. Include a corrections order allowing a reasonable time to make the repairs and improvements required to bring the apartment, apartment building, building, accessory structure, structure or premises into compliance with the provisions of this chapter.
 5. Inform the property owner of the right to appeal.
 6. Include a statement of the right to file a lien in accordance with section 10.200.106.3.

10.200.107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

10.200.107.4 Unauthorized tampering. Signs, tags, or seals posted or affixed by the building official shall not be mutilated, destroyed, or tampered with, or removed without authorization from the building official.

10.200.107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in section 10.200.106.4.

10.200.107.6 Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee, or lessee a true copy of any compliance order or notice of violation issued by the building official and shall furnish to the building official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.108. Unsafe structures and equipment.

10.200.108.1 General. When an apartment, apartment building, building, accessory structure, structure or equipment is found by the building official to be unsafe, or when an apartment, apartment building, building, accessory structure or structure is found unfit for human occupancy, or is found unlawful, such apartment, apartment building, building, accessory structure or structure shall be condemned pursuant to provisions of this chapter.

10.200.108.1.1 Unsafe structures. An unsafe apartment, apartment building, building, accessory structure or structure is one that is found to be dangerous to the life, health, property, or safety of the public or the occupants of the apartment, apartment building, building, accessory structure or structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such apartment, apartment building, building, accessory structure or structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

10.200.108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment on the premises or within the apartment, apartment building, building, accessory structure or structure which is in

such disrepair or condition that such equipment is a hazard to life, health, property, or safety of the public or occupants of the premises or apartment, apartment building, building, accessory structure or structure.

10.200.108.1.3 Structure unfit for human occupancy. An apartment, apartment building, building, accessory structure or structure is unfit for human occupancy whenever the building official finds that such apartment, apartment building, building, accessory structure or structure is unsafe, unlawful or, because of the degree to which the apartment, apartment building, building, accessory structure or structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities, or other essential equipment required by this chapter, or because the location of the apartment, apartment building, building, accessory structure or structure constitutes a hazard to the occupants of the apartment, apartment building, building, accessory structure, structure or to the public.

10.200.108.1.4 Unlawful structure. An unlawful apartment, apartment building, building, accessory structure or structure is one found in whole or in part to be occupied by more persons than permitted under this chapter, or was erected, altered, or occupied contrary to law.

10.200.108.1.5 Dangerous structure or premises. For the purpose of this chapter, any apartment, apartment building, building, accessory structure, structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit, or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure, or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism, or by any other cause to such an extent that is likely to partially or completely collapse, or to become detached or dislodged.
4. Any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting natural or artificial loads of 1½ the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, become a harbor for vagrants, criminals, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse, or any other threat to life and safety.

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9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the building official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.
 10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system, or other cause, is determined by the building official to be a threat to life or health.
 11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

10.200.108.2 Closing of vacant structures. If an apartment, apartment building, building, accessory structure or structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the building official is authorized to post a placard of condemnation on the premises and order the apartment, apartment building, building, accessory structure or structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the building official shall cause the premises to be closed and secured through an available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the apartment, apartment building, building, accessory structure or structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

10.200.108.2.1 Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the apartment, apartment building, building, accessory structure, structure or system regulated by this chapter and the referenced codes and standards set for in section 10.200.102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The building official shall notify the serving utility and, whenever possible, the owner and occupant of the apartment, apartment building, building, accessory structure, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner or occupant of the apartment, apartment building, building, accessory structure, structure or service system shall be notified in writing as soon as practical thereafter.

10.200.108.3 Notice. Whenever the building official has condemned an apartment, apartment building, building, accessory structure, structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the apartment, apartment building, building, accessory structure, structure or equipment in accordance with section 10.200.107.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. This notice shall be in the form prescribed in section 10.200.107.2.

10.200.108.4 Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the building official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, or operating the equipment or removing the placard.

10.200.108.4.1 Placard removal. The building official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the building official shall be subject to the penalties provided by this chapter.

10.200.108.5 Prohibited occupancy. Any occupied apartment, apartment building, building, accessory structure or structure condemned and placarded by the building official shall be vacated as ordered by the building official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner

or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this chapter.

10.200.108.6 Abatement methods. The owner, operator, or occupant of a building, premises, or equipment deemed unsafe by the building official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition, or other approved corrective action.

10.200.108.7 Record. The building official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.109. Emergency measures.

10.200.109.1 Imminent danger. When, in the opinion of the building official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the building official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The building official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Building Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

10.200.109.2 Temporary safeguard. Notwithstanding other provisions of this chapter, whenever, in the opinion of the building official, there is imminent danger due to unsafe condition, the building official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the building official deems necessary to meet such emergency.

10.200.109.3 Closing streets. When necessary for public safety, the building official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

10.200.109.4 Emergency repairs. For the purposes of this section, the building official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

10.200.109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

10.200.109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this chapter.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.110. Demolition.

10.200.110.1 General. The building official shall order the owner of any premises upon which is located any apartment building, building, accessory structure or structure, which in the building official judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the apartment building,

building, accessory structure or structure to demolish and remove such apartment building, building, accessory structure or structure; or if such apartment building, building, accessory structure or structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owners option; or where there has been a cessation of normal construction of any apartment building, building, accessory building or structure for a period of more than two years, the building official shall order the owner to demolish and remove such apartment building, building, accessory structure or structure or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.

10.200.110.2 Notices and orders. All notices and orders shall comply with section 10.200.107.

10.200.110.3 Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the building official shall cause the apartment building, building, accessory structure or structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the apartment building, building, accessory structure or structure is located and shall be a lien upon such real estate.

10.200.110.4 Salvage materials. When any apartment building, building, accessory structure or structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.111. Means of appeal.

10.200.111.1 Application for appeal. Any person directly affected by a decision of the building official or a notice of order issued under this chapter shall have the right to appeal to the board of zoning and adjustments (BZA), provided that a written application for appeal is filed within the time frame given to abate the violation(s) or 20 days, whichever comes due first. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply, or the requirements of this chapter are adequately satisfied by other means.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.112. Stop work order.

10.200.112.1 Authority. Whenever the building official finds any work regulated by this chapter being performed in a manner contrary to the provisions of this chapter or in a dangerous or unsafe manner, the building official is authorized to issue a stop work order.

10.200.112.2 Issuance. A stop work order shall be in writing and shall be given to the owner of the property, to the registered representative, to the person doing the work, or posted in a conspicuous place upon the premises where the work is being done. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

10.200.112.3 Emergencies. Where an emergency exists, the building official shall not be required to give written notice prior to stopping the work.

10.200.112.4 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 violations or unsafe condition, shall be liable to a fine of not less than \$50.00 or more than \$500.00.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.113. Registration and fees.

10.200.113.1 Required. The owner of an apartment building and/or apartment community shall register said apartment building and/or apartment community in accordance with title X, chapter 300.

10.200.113.2 Fees. The fees for registration shall be in accordance with title X, chapter 300.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

DIVISION 2. DEFINITIONS

Sec. 10.200.201. General.

10.200.201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings shown in this section.

10.200.201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

10.200.201.3 Terms defined in other codes. Where terms are not defined in this chapter and are defined in the International Building Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Property Maintenance Code, or International Residential Code, such terms shall have the meanings such as ascribed to them as stated in those codes.

10.200.201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

10.200.201.5 Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "housekeeping unit" or "story" are stated in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.202. General definitions.

Accessible. A site, building, facility or portion thereof that complies with Chapter 11 of the International Building Code; as adopted by the city.

Accessible means of egress. A continuous and unobstructed way of egress travel from any accessible point in a building or facility to a public way.

Accessible route. A continuous, unobstructed path that complies with Chapter 11 of the International Building Code; as adopted by the city.

Accessible unit. A dwelling unit or sleeping unit that complies with the International Building Code and the provisions for accessible units in ICC A117.1; as adopted by the city.

Accessory living quarters. An accessory building used solely as the temporary dwelling of guests of the occupant(s) of the premises; such dwelling having no kitchen facilities and not rented or otherwise used as a separate sleeping unit.

Accessory structure. A structure not greater than 3,000 square feet (279 m²) in floor area, and not over two stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same premises, lot, tract, or parcel.

Accessory use. A use conducted on the same lot as the primary use of the structure to which it is related; a use that is clearly incidental to, and customarily found in connection with, such primary use.

Addition. An extension or increase in floor area or height of a building or structure.

Aisle. An enclosed exit access component that defines and provides a path of egress travel.

Aisle accessway. That portion of an exit access that leads to an aisle.

Alley. Any public way or thoroughfare more than ten feet (3,048 mm), but less than 16 feet (4,877 mm) in width, which has been dedicated to the public for public use.

Alteration. Any construction or renovation to an existing structure other than repair or addition that requires a permit. Also, a change in a mechanical system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a permit.

Anchored. Secured in a manner that provides positive connection.

Apartment. A room used as a dwelling unit and located in a building containing only such rooms or suites with necessary passage and hallways.

Apartment building. A building containing more than four apartments.

Apartment community. Property or premises under common ownership with two or more apartment buildings designed, built, rented, leased, let or hired out to be occupied or that are occupied, as residences.

Apartment hotel. A hotel that rents furnished apartments or suites suitable for housekeeping, on a weekly or more permanent basis, and usually supplies all hotel services.

Apartment house. A building containing a number of separate dwelling units.

Approved. Acceptable to the building official or authority having jurisdiction.

Aquatic vessel. A vessel, permanent or temporary, intended for swimming, bathing, or wading and that is designed and manufactured to be connected to a circulation system. Portable vessels 12 inches (305 mm) or less in designed water depth, which are drained and filled daily are not considered aquatic vessels.

Attic. The unfinished space between the ceiling joists of the top story and the roof assembly.

Attic, habitable. A finished or unfinished area, not considered a story, complying with all of the following requirements.

- (1) The occupiable floor area is at least 70 square feet (17 m²), in accordance with Section R304 of the 2012 International Residential Code.
- (2) The occupiable floor area has a ceiling height in accordance with Section R305 of the 2012 International Residential Code.
- (3) The occupiable space is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.

Awning. An architectural projection that provides weather protection, identity or decoration and is partially or wholly supported by the building to which it is attached. An awning is comprised of a lightweight frame structure over which a covering is attached.

Balcony, exterior. An exterior floor projecting from and supported by a structure without additional independent supports.

Barrier. A fence, wall, building wall, wall of an above-ground swimming pool or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

Basement. That portion of a building, which is partly or completely below grade.

Bathroom. A room containing plumbing fixtures including a bathtub or shower.

Bathroom group. A group of fixtures, including or excluding a bidet, consisting of a water closet, lavatory, and bathtub or shower. Such fixtures are located together on the same floor level.

Bedroom. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

Blighted. Any structure or premises, which by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors are detrimental to safety and health.

Boarding house. A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building, main. A building in which the principal use of the site is conducted.

Building, temporary. A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

Building line. The line established by law, beyond which a building shall not extend, except as specifically provided by law.

Building official. The officer who is charged with the administration and enforcement of this chapter, or any duly authorized representative.

Canopy. A permanent structure or architectural projection of rigid construction over which a covering is attached that provides weather protection, identity or decoration. A canopy is permitted to be structurally independent or supported by attachment to a building on one or more sides.

City. The City of Gladstone, Clay County, Missouri.

Chimney. A primary vertical structure containing one or more flues, for the purpose of carrying gaseous products of combustion and air from a fuel-burning appliance to the outside atmosphere.

Closet. A small room or chamber used for storage.

Code official. See "building official."

Combustion air. The air provided to fuel-burning equipment including air for fuel combustion, draft hood dilution and ventilation of the equipment enclosure.

Condemn. To adjudge unfit for occupancy.

Conditional use. A use that would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions.

Conditioned air. Air treated to control its temperature, relative humidity or quality.

Conditioned area. That area within a building provided with heating and/or cooling systems or appliances capable of maintaining, through design or heat loss/gain, 68°F (20°C) during the heating season and/or 80°F (27°C) during the cooling season, or has a fixed opening directly adjacent to a conditioned area.

Conditioned space. For energy purposes, space within a building that is provided with heating and/or cooling equipment or systems capable of maintaining, through design or heat loss/gain 52°F (10°C) during the heating season and 85°F (29°C) during the cooling season, or communicates directly with a conditioned space. For mechanical purposes, an area, room or space being heated or cooled by any equipment or appliance.

Condominium. A single-dwelling unit in a multiple unit dwelling or structure, that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

Congregate living facilities. A building or part thereof that contains sleeping units where occupants share bathroom and/or kitchen facilities.

Construction documents. Written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of a project necessary for obtaining a building permit.

Commission, the. The neighborhood commission of the city.

Corridor. An enclosed exit access component that defines and provides a path of egress travel.

Court. An open, uncovered space, unobstructed to the sky, bounded on three or more sides by exterior building walls or other enclosing devices.

Debris. The remains of something broken down or destroyed; and/or discarded garbage or rubbish.

Deck. An exterior floor supported on a least two opposing sides by an adjacent structure, and/or posts, piers or other independent supports.

Detached. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

Detached building. A separate single-story building, without a basement or crawl space, used for the storage or use of hazardous materials and located an approved distance from all structures.

Deterioration. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

Driveway. A private access road, the use of which is limited to persons residing, employed, or otherwise using or visiting the premises in which it is located.

Driveway approach. That portion of the driveway that is located in the City right-of-way.

Dormitory. A space in a building where group-sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories or fraternity or sorority houses.

Dwelling. Any building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

Dwelling, multiple unit. A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.

Dwelling, single family. A detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.

Dwelling, two-family. A building designed or arranged to be occupied by two families living independently, with the structure having only two dwelling units.

Dwelling unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling unit or sleeping unit, multi-story. See "dwelling, multi unit."

Easement. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

Egress court. A court or yard, which provides access to a public way for one or more exits.

Emergency escape and rescue opening. An operable exterior window, door or similar device that provides for a means of escape and access for rescue in the event of an emergency.

Equipment support. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

Exit. That portion of a means of egress system between the exit access and the exit discharge or public way. Exit components include exterior exit doors at the level of exit discharge, interior exit stairways, interior exit ramp, exit passageways, exterior exit stairways and exterior exit ramps and horizontal exits.

Exit access. That portion of a means of egress system that leads from any occupied portion of a building or structure to an exit.

Exit access doorway. A door or access point along the path of egress travel from an occupied room, area or space where the path of egress enters an intervening room, corridor, exit access stair or exit access ramp.

Exit access ramp. An interior ramp that is not a required interior exit ramp.

Exit access stairway. An interior stairway that is not a required interior exit stairway.

Exit discharge. That portion of a means of egress system between the termination of an exit and public way.

Exit discharge, level of. The story at the point at which an exit terminates and an exit discharge begins.

Exit hardware, fire. See "fire exit hardware."

Exit, horizontal. A path of egress travel from one building to an area in another building on approximately the same level, or a path of egress travel through or around a wall or partition to an area on approximately the same level in the same building, which affords safety from fire and smoke from the area of incidence and areas communicating therewith.

Exit passageway. An exit component that is separated from other interior spaces of a building or structure by fire resistance-rated construction and opening protectives, and provides for a protected path of egress travel in a horizontal direction to an exit or to the exit discharge.

Exterior property. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

Exterior wall. An above-grade wall that defines the exterior boundaries of a building. Includes between-floor spandrels, peripheral edges of floors, roof and basement knee walls, dormer walls, gable and end walls, walls enclosing a mansard roof and basement walls with an average below-grade wall area that is less than 50 percent of the total opaque and nonopaque area of that enclosing side.

Exterior wall covering. A material or assembly of materials applied on the exterior side of exterior walls for the purpose of providing a weather-resistive barrier, insulation or for aesthetics, including but not limited to, veneers, siding, exterior insulation and finish systems, architectural trim and embellishments such as cornices, soffits, and fascias.

Extermination. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

Face of building, primary. The wall of a building fronting on a street or rights-of-way, excluding any appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations.

Facility. All or portion of buildings, structures, site improvements, elements and pedestrian or vehicular routes located on a site.

Fire area. The aggregate floor area enclosed and bounded by fire walls, fire barriers, exterior walls or horizontal assemblies of a building. Areas of the building not provided with surrounding walls shall be included in the fire area if such areas are included within the horizontal projection of the roof or floor next above.

Fire barrier. A fire-resistance-rated wall assembly of materials designed to restrict the spread of fire in which continuity is maintained.

Fire door. The door component of a fire door assembly.

Fire door assembly. Any combination of a fire door, frame, hardware and other accessories that together provide a specific degree of fire protection to the opening.

Fire exit hardware. Panic hardware that is listed for use on fire door assemblies.

Fire lane. A road or other passageway developed to allow the passage of fire apparatus. A fire lane is not necessarily intended for vehicular traffic other than fire apparatus.

Fire partition. A vertical assembly of materials designed to restrict the spread of fire in which openings are protected.

Fire protection system. Approved devices equipment and systems or combinations of systems used to detect a fire, activate an alarm, extinguish or control a fire, control or manage smoke and products of a fire or any combination thereof.

Fire-rated glazing. Glazing with either a fire protection rating or a fire-resistance rating.

Fire wall. A fire-resistance-rated wall having protected openings, which restricts the spread of fire and extends continuously from the foundation to or through the roof, with sufficient structural stability under fire conditions to allow collapse of construction on either side without collapse of the wall.

Fire window assembly. A window constructed and glazed to give protection against the passage of fire.

Fireblocking. Building materials, or materials approved for use as fireblocking, installed to resist the free passage of flame to other areas of the building through concealed spaces.

Fireplace. A hearth and fire chamber or similar prepared place in which a fire may be made and which is built in conjunction with a chimney.

Flight. A continuous run of rectangular treads or winders or combination thereof from one landing to another.

Floor area, gross. The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

Floor area, net. The actual occupied area not including unoccupied accessory areas such as corridors, stairways, toilet room, mechanical rooms and closets.

Frame structure. A building or other structure in which vertical loads from floors and roofs are primarily supported by columns.

Frontage. The width of a lot or parcel abutting a public rights-of-way measured at the front property line.

Furnace. A vented heating appliance designed or arranged to discharge heated air into a conditioned space or through a duct or ducts.

Garage, private. A building or a portion of a building, in which only private or pleasure-type motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.

Garbage. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Glazing area. The interior surface area of all glazed fenestration, including the area of sash, curbing or other framing elements, that enclose conditioned space. Includes the area of glazed fenestration assemblies in walls bounding conditioned basements.

Grade. The finished ground level adjoining the building at all exterior walls.

Grade floor opening. A window or other opening located such that the sill height of the opening is not more than 44 inches (1,118 mm) above or below the finished ground level adjacent to the opening.

Group home. A facility for social rehabilitation, substance abuse or mental health problems that contains a group housing arrangement that provides custodial care but does not provide acute care.

Gross combination weight rating (GCWR). The value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

Gross vehicle weight rating (GVWR). The value specified by the manufacture as the loaded weight of a single motor vehicle.

Guard. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimize the possibility of a fall from the walking surface to a lower level.

Guardrail. See "guard."

Guestroom. Any room or rooms used or intended to be used by one or more guests for living or sleeping purposes.

Habitable space. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable space.

Handrail. A horizontal or sloping rail intended for grasping by the hand for guidance or support.

Hazardous location. Any location considered to be a fire hazard for flammable vapors, dust, combustible fibers or other highly combustible substances.

Height, building. The vertical distance from grade plane to the average height of the highest roof surface.

Height, story. The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

High-rise building. A building with an occupied floor located more than 75 feet (22,860 mm) above the lowest level of the fire department vehicle access.

Historic building. Buildings that are listed in the National Register of Historic Places, or designated as historic under an appropriate federal, state or local law.

Home occupation. The partial use of a home for commercial or nonresidential uses by a resident thereof, which is subordinate and incidental to the use of the dwelling for residential purposes.

Hot tub. See "spa."

Hotel. An establishment that provides lodging and usually meals, entertainment, and various personal services for the public.

House. A structure intended or used for human habitation. This classification shall include, but not limited to the following; abode, bungalow, cottage, dwelling, lodging house, mansion and tenement.

Housekeeping unit. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

Imminent danger. A condition, which could cause serious or life-threatening injury or death at any time.

Inclined walking surface. A walking surface that has a running slope not steeper than one unit vertical in 20 units horizontal and is not parallel to adjacent grade.

Infestation. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

Inn. An establishment of many rooms, which provides lodging for travelers.

Inspection. The on-site assessment of the physical, operational, and on-site measures in effect on the property that might affect the maintenance, safety, sanitation and criminal activity of the premises.

Intended to be occupied as a residence. This refers to a dwelling unit or sleeping unit that can or will be used all or part of the time as the occupant's place of abode.

Interior exit stairway. An exit component that serves to meet one or more means of egress design requirements, such as required number of exits or exit access travel distance, and provides for a protected path of egress travel to the exit discharge or public way.

Jurisdiction. The governmental unit that has adopted this chapter under due legislative authority.

Kitchen. Any room or portion of a room within a building used, or designed and intended to be used, for the cooking or preparation of food.

Labeled. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

Landscaping. The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flower. This treatment shall be permitted also to include the use of logs, rocks, fountains, water features and contouring of the earth.

Lease. Any written or oral agreement that sets forth any and all conditions concerning the use and/or occupancy of any habitable space, in exchange for services in-kind, money or other consideration.

Let for occupancy or let. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premises or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement, or license, or pursuant to a unrecorded agreement of contract for the sale of land.

Live/work unit. A dwelling unit or sleeping unit in which a significant portion of the space includes a nonresidential use that is operated by the tenant.

Living space. Space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

Local. Located within a 40-road/driving-mile distance of the subject property.

Lodging house. A single-family dwelling where one or more occupants are primarily permanent in nature, and rent is paid for guestrooms.

Lot. A portion or parcel of land considered as a unit.

Lot line. A line dividing one lot from another, or from a street or any public place.

Manager. The local person, agent, firm or corporation appointed or hired by the owner to be responsible for the daily operation, leasing and/or maintenance of any rental property.

Means of egress. A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a public way. A means of egress consists of three separate and distinct parts: the exit access, the exit and the exit discharge.

Media, social. Forms of electronic, digital, computerized or networked information and communication technologies through which users create online communities to share information, ideas, personal messages and other content. These can take many different forms, including internet forums, blogs, wikis podcasts, and picture-, music- and video-sharing. Examples of social media applications are Google Groups, Wikipedia, My Space, Facebook, Craigslist, YouTube, Second Life, Flickr and Twitter.

Media, traditional. Communication that existed before social media such as television, radio, newspaper, magazines, newsletters, tax press and other print publications.

Mortgagee. The creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

Motel. An establishment which provides lodging and parking and in which the rooms are usually accessible from an outdoor parking area.

Motor vehicle. Any vehicle, automobile, automobile truck, automobile wagon, motorcycle, machine, tractor, trailer or semi trailer propelled or drawn by mechanical power and used upon public streets in the transportation of passengers or property, or any combination thereof, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

Motor vehicle, bus. Any motor vehicle designed, constructed and/or used for the transportation of passengers, including taxicabs.

Motor vehicle, commercial. Any self-propelled or towed motor vehicle for use or used upon street, highways, road, etc. in interstate and local commerce to transport passengers or property when the vehicle-

- (1) Has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight or gross combination weight of 10,001 pounds (4,536 kg) or more, whichever is greater; or
- (2) Is designed or used to transport more than eight passengers, including the driver, for compensation; or
- (3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- (4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary of Transportation under 49 CFR, subtitle B, Chapter 1, subchapter C.

Motor vehicle, inoperable. A motor vehicle which cannot be driven upon the public streets for reason, including but not limited to, being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Motor vehicle, school bus. A passenger motor vehicle, which is designed or used to carry more than ten passengers in addition to the driver, and which the secretary of transportation determines is likely to be significantly used for the purpose of transporting preprimary, primary or secondary school students to such schools from home and from such schools to home.

Motor vehicle, truck. Any self-propelled commercial motor vehicle except a truck tractor motor vehicle, designed and/or used for the transportation of property.

Motor vehicle, truck tractor. A self-propelled commercial motor vehicle designed and/or used primarily for pulling other vehicles.

Motor vehicle unlicensed. A motor vehicle that is not validly registered under the laws of the State of Missouri, other jurisdictions or does not display valid license plates.

Multi-family housing. See "apartment building."

Multistory unit. A dwelling unit or sleeping unit with habitable space located on more than one story.

Neglect. The lack of proper maintenance for a building or structure.

Nonconditioned space. A space that is not conditioned space by insulated walls, floors or ceilings.

Normal temperature and pressure. A temperature of 70°F (21°C) and a pressure of one atmosphere [14.7 psia (101 kPa)].

Occupancy. The purpose for which a building or portion thereof is utilized or occupied.

Occupant. Any individual living or sleeping in a building, or having possession of a space within a building.

Occupant load. The number of persons for which the means of egress of a building or portion thereof is designed.

Occupiable space. A room or enclosed space designed for human occupancy in which individuals congregate for amusement, educational or similar purposes or in which occupants are engaged at labor, and which is equipped with means of egress and light and ventilation facilities meeting the requirements of the building codes.

Open space. Land areas that are not occupied by buildings, structures, parking areas, streets, alleys or required yards. Open space shall be permitted to be devoted to landscaping, preservation of natural features, patios and recreational areas and facilities.

Openable area. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Operator. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

Owner. Any person, co-partnership, agent, operator, firm, corporation or fiduciary having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person or ordered to take possession of real property by a court or by the trustee of any trust owning property.

Owner of record. The person having recorded title to the property at the point in time the record is provided by the Clay County Recorder's Office.

Panic hardware. A door-latching assembly incorporating a device that releases the latch upon the application of a force in the direction of egress travel. See also "fire exit hardware."

Penthouse. An enclosed, unoccupied rooftop structure used for sheltering mechanical and electrical equipment, tanks, elevators and related machinery, and vertical shaft openings.

Park. A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

Parking area. See "paved area."

Parking lot. An open area, other than a street, used for the parking of motor vehicles.

Parking space, motor vehicle. A space within a building or private or public parking lot, exclusive of driveways, ramps, columns, office and work areas, for the parking of a motor vehicle.

Paved area. A hard surfaced area consisting of concrete, asphalt or other approved materials.

Permit. An official document or certificate issued by the authority having jurisdiction that authorizes performance of a specified activity.

Person. An individual, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

Personal property. Property other than real property consisting of things temporary or movable.

Pest elimination. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; or by other approved pest elimination methods.

Premises. A lot, plot or parcel of land, easement or public way, including any structures thereon.

Property. Any unimproved or improved real property, or portion thereof, located in the city including the buildings or structures located on the property regardless of condition.

Public use areas. Interior or exterior rooms or spaces that are made available to the general public.

Public way. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Ramp. A walking surface that has a running slope steeper than one unit vertical in 20 units horizontal (five percent slope).

Registered representative. Any person located locally and designated by the property owner as the owner's representative for the purpose of accepting notice, service and summons on behalf of the property owner and for otherwise ensuring compliance with the requirement of this chapter.

Rent. Any written or oral agreement that sets forth any and all conditions concerning the use and/or occupancy of any habitable space, in exchange for services, in-kind, money or other consideration.

Rental agent. The local person, agent, firm or corporation appointed or hired by the owner, and may or may not be the manager, to be responsible for the daily operation, leasing and/or maintenance of any rental property.

Rental property. Any premises that an owner rents, leases, allows another to use or occupy.

Rental unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Repair. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

Residential rental property. A building, or portion thereof, designed exclusively for residential occupancy, including one- or two-family dwellings, condominium, townhome, townhouse, multiple dwellings, mobile homes, house trailers, boarding and lodging houses, apartment houses and apartment hotels; but not hotels, motels,

recreational vehicles or fifth wheels unless they are being used legally as a primary residence, that an owner rents, leases or allows another to use or occupy.

Residential property. Any property that contains one or more dwelling units used, intended or designed to be occupied for living purposes.

Restroom. A room containing plumbing fixtures excluding a bathtub or shower.

Rights-of-way. The area on, below or above a public roadway, streets, alleys, bridges, bikeways, parkway and sidewalks in which the city has an ownership interest but not including: (a) the airways above the public rights-of-way with regard to cellular or other non-wire telecommunications or broadcast service; (b) easements obtained by utilities or private easements in platted subdivision or tracts; or (c) poles, pipes, cables conduits, wires, optical cables or other means of transmission, collection or exchange of communications, information, substances, data or electronic or electrical current or impulses utilized by a municipally owned or operated utility pursuant to RSMO Ch. 91, or pursuant to a charter form of government.

Riser. The vertical component of a step or stair.

Rooming house. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

Rooming unit. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

Rubbish. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass, crockery and dust and other similar materials.

Safety. The condition of being reasonably free from danger and hazards, which may cause injury or illness.

Self-closing. As applied to a fire door or other opening protective, means equipped with a device that will ensure closing after having been opened.

Sleeping unit. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Smoke detector. A listed device that senses visible or invisible particles of combustion.

Social networking. See "media, social."

Spa. A product intended for the immersion of persons in temperature-controlled water circulated in a closed system, and not intended to be drained and filled with each use. A spa usually includes a filter, a heater (electric, solar, or gas), a pump or pumps, and a control, and may also include other equipment, such as lights, blowers, and water-sanitizing equipment.

Stair. A change in elevation, consisting of one or more risers.

Stairway. One or more flights of stairs, either interior or exterior, with the necessary landings and platforms connecting them to form a continuous and uninterrupted passage from one level to another within or attached to a building, porch or deck.

Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Street. Any thoroughfare or public way not less than 16 feet (4,877 mm) in width which has been dedicated.

Street, private. A rights-of-way or easement in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.

Street, public. Any street, road or way dedicated to public use.

Strict liability offense. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of a case. It is enough to prove that the defendant either did an act, which was prohibited, or failed to do an act, which the defendant was legally required to do.

Structure. That which is built or constructed or a portion thereof.

Swimming pool (semi-public pool). A pool operated solely for and in conjunction with apartment communities.

Tenant. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Tenement house. A building containing a number of separate dwelling units.

Toilet room. A room containing a water closet or urinal but not a bathtub or shower.

Town home. See "townhouse."

Townhouse. A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with a yard or public way on a least two sides.

Trailer. A unit attached to a motor vehicle designed to carry property and/or passengers. A trailer cannot be motorized or self-operated. A trailer may include, but is not limited to the following; homemade, kit, farm wagon, boat, utility, flat bed, semi, livestock and camping.

Ultimate deformation. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

Unsheltered storage. Any personal property not stored in or under a structure such as a shed, carport, garage or deck that is permanent in nature.

Ventilation. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

Wall, retaining. A wall not laterally supported at the top, that resists lateral soil load and other imposed loads.

Water heater. Any heating appliance or equipment that heats potable water and supplies such water to the potable hot water distribution system.

Weeds. All grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Weeds, noxious. A noxious weed is an invasive species of a plant that has been designated by the country, state or national agricultural authorities as one that is injurious to agricultural and/or horticultural crops, natural habitats and/or ecosystems, and/or humans or livestock.

Winder. A tread with nonparallel edges.

Workmanlike. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

Yard. An open space on the same lot with a structure.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

DIVISION 3. GENERAL REQUIREMENTS

Sec. 10.200.301. General.

10.200.301.1 Scope. The provisions of this division shall govern the minimum conditions and the responsibilities of persons for maintenance of apartments, apartment buildings, buildings, accessory structures, structures, equipment and exterior property.

10.200.301.2 Responsibility. The owner of the premises shall maintain the apartments, apartment buildings, buildings, accessory structures, structures and exterior property in compliance with these requirements, except as otherwise provided for in the chapter. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe conditions and which do not comply with the requirements of this division. Occupants of an apartment or apartment building are responsible for keeping in a clean, sanitary and safe condition that part of the apartment, apartment building or premises, which they occupy and control.

10.200.301.3 Vacant structures and land. All vacant apartments, apartment building and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.302. Exterior property areas.

10.200.302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property, which such occupant occupies or controls in a clean and sanitary condition.

10.200.302.2 Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs.

10.200.302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, ramps, parking lots, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

10.200.302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten inches (254 mm). On undeveloped property, weeds or plant growth shall be maintained a minimum of 100 feet (30,480 mm) from all adjacent lot lines. All noxious weeds shall be prohibited.

Upon failure of the owner or agent having charge of the property to cut and destroy weeds after the service of a notice of violation, they may be subject to prosecution in accordance with section 10.200.106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property. If not paid by owner or agent responsible for the property, the cost of such abatement and other associated costs shall be assessed on the owner's property tax notice.

Exception: Premises adjacent to a stream may allow weeds or plant growth to grow beyond the height of 10 inches (254 mm) within ten feet (3,048 mm) of the edge of the stream.

10.200.302.4.1 Weeds in public rights-of-way. All premises and exterior property adjacent to the city or the State of Missouri's public rights-of-way along improved and/or unimproved streets shall comply with the requirements of section 10.200.302.4, and the adjacent property owner shall be responsible for seeding, sodding and plantings.

Exception: Any property along a public rights-of-way that contains a drainage ditch or incline, which cannot be mowed or maintained by normal residential mower or weed removal tool(s) as determined by the building official.

10.200.302.5 Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes, which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

10.200.302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

10.200.302.7 Accessory structures. All accessory structures, including but not limited to, detached garages, carports, gazebos, decks, platforms, sheds, lean-tos, fences and walls, shall be maintained structurally sound and in good repair.

10.200.302.8 Motor vehicles. Except as provided for in other regulations, no motor vehicle that is inoperative, unlicensed or has expired registration tags shall be parked, kept or stored on any premises, and no vehicle shall be at any time in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including bodywork, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

10.200.302.8.1 Parking on paved area. All motor vehicles shall be parked on an approved driveway, parking area or paved area that has a minimum thickness of four inches (101 mm) of either concrete, asphalt or other similar approved materials.

Exception: Existing gravel driveways classified as an approved existing nonconforming driveway.

10.200.302.8.2 Commercial vehicle. No person shall park or allow to be parked a commercial motor vehicle upon any residential lot or premises, improved or unimproved, in the city.

Exceptions:

- (1) City-owned and -operated vehicles; services vehicles owned by utility companies while in the process of services and maintenance; construction vehicles while being used in conjunction with construction or maintenance authorized by the city.
- (2) For the purpose of making delivery or pickup provided such vehicles are not left continuously parked between the hours of 9:00 p.m. and 7:00 a.m.
- (3) Pickup trucks rated at one ton (907 kg) or more that are owned and operated for the personal use, non-business related, of the individual who owns said pickup truck.

10.200.302.8.3 Motor vehicles for sale. Except as provide for herein no one shall park or allow to be parked a motor vehicle on private or public property zoned residential, commercial or manufacturing within view of a public street for the purpose of selling or advertising for sale, said motor vehicle.

Exception: A resident of an apartment community may have a motor vehicle for sale on said premises; but only one motor vehicle per apartment per year.

10.200.302.8.3.1 Prima facie evidence. The fact that a "for sale" sign, telephone number(s), email address or other advertising appears on the motor vehicle or the motor vehicle is advertised in any traditional media or social media, shall be prima facie evidence that the motor vehicle is parked for the purpose of being offered for sale.

10.200.302.8.4 Motor vehicle encroachment. No motor vehicle shall block or partially block any portion of the public sidewalk, or access pathway for public sidewalks at driveway approaches within the city rights-of-way.

10.200.302.9 Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any apartment building, building, accessory structure or structure on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

10.200.302.10 Open storage. All exterior property and premises, open bed pickup trucks and open trailers located on any premises, private street or public street shall be free of unsheltered storage of any kind.

Exception: Useable BBQ grills as long as there is not a collection thereof, lawn furniture maintained in useable condition, bicycles maintained in operational use as long as there is not a collection thereof, firewood neatly stacked in an approved location and the temporary storage of landscape and building materials to be used on the premises for a current project under construction so long as the materials are neatly stacked in an approved location and are not stored leaning against the side of a building or structure.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.303. Swimming pools, spas and hot tubs.

10.200.303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

10.200.303.2 Enclosures. All swimming pools shall be surrounded by a fence or barrier at least 48 inches (1,219 mm) in height above the finished ground level measured on the side of the fence or barrier away from the swimming pool. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

10.200.303.3 Gates. Access gates shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the swimming pool and shall be self-closing and have a self-latching device.

10.200.303.4 Latches. Where the release mechanism of the self-latching device is located less than 54 inches (1,372 mm) from grade, the release mechanism shall be located on the swimming pool side of the gate at least three inches (76 mm) below the top of the gate, and the gate and barrier shall not have an opening greater than 0.5 inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.304. Exterior structure.

10.200.304.1 General. The exterior of an apartment, apartment building, building, accessory structure or structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

10.00.304.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

- (1) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;

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- (2) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
 - (3) Structures or components thereof that have reached their limit state;
 - (4) Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
 - (5) Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects;
 - (6) Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
 - (7) Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
 - (8) Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
 - (9) Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects;
 - (10) Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
 - (11) Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
 - (12) Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects; or
 - (13) Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

- (1) When substantiated otherwise by an approved method.
- (2) Demolition of unsafe condition shall be permitted when approved by the building official.

10.200.304.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or

corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

10.200.304.3 Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

10.200.304.3.1 Apartment building identification. Apartment buildings shall have approved address numbers placed in a position to be plainly legible adjacent to each entrance to an apartment building. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

10.200.304.3.2 Apartment identification. Apartments shall have approved address numbers placed in a position adjacent to the apartment's primary entry door on the latched side or on the primary entry door. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches (102 mm) in height with a minimum stroke width 0.5 inch (12.7 mm).

10.200.304.4 Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

10.200.304.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks as shall be kept in such condition so as to prevent the entry of rodents and other pests.

10.200.304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

10.200.304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

10.200.304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

10.200.304.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatments.

10.200.304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

10.200.304.11 Chimneys and towers. All chimneys and cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

10.200.304.12 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

10.200.304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

10.200.304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

10.200.304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

10.200.304.14 Insect screens. Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

10.200.304.15 Doors. All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to apartments and apartment buildings shall tightly secure the door. Locks on means of egress doors shall be in accordance with section 10.200.702.3.

10.200.304.16 Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

10.200.304.17 Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

10.200.304.18 Building security. Doors, windows or hatchways for apartments and apartment buildings shall be provided with devices designed to provide security for the occupants and property within.

10.200.304.18.1 Doors. Doors providing access to an apartment that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of one inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

10.200.304.18.2 Windows. Operable windows located in whole or in part within six feet (1828 mm) above ground level or a walking surface below that provides access to an apartment or apartment building that is rented, leased or let shall be equipped with a window sash locking device.

10.200.304.18.3 Basement hatchways. Basement hatchways that provide access to apartments and apartment buildings that are rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

10.200.304.19 Gates. All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.305. Interior Structure.

10.200.305.1 General. The interior of an apartment, apartment building, building, accessory structure, structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the apartment, apartment building or accessory structure, which they occupy or control, in a clean and sanitary condition. Every owner of an apartment building, building or structure containing an apartment shall maintain, in a clean and sanitary condition, the shared or public areas of the apartment building, building, structure and exterior property.

10.200.305.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

- (1) The normal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
- (2) The anchorage of the floor or roof to the wall or columns, and of wall and columns to foundations, is not capable of resisting all nominal loads or load effects;
- (3) Structures or components thereof that have reached their limit state;
- (4) Structural members are incapable of supporting nominal loads and load effects;
- (5) Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (6) Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

- (1) When substantiated otherwise by an approved method.
- (2) Demolition of unsafe conditions shall be permitted when approved by the building official.

10.200.305.2 Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

10.200.305.3 Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

10.200.305.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

10.200.305.5 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

10.200.305.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.306. Component serviceability.

10.200.306.1 General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

10.200.306.1.1 Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code as required for existing buildings:

- (1) Soils that have been subjected to any of the following conditions:
 - 1.1. Collapse of footing or foundation system;

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- 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion;
 - 1.3. Adverse effects to the strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
 - 1.4. Inadequate soil as determined by a geotechnical investigation;
 - 1.5. Where the allowable bearing capacity of the soil is in doubt; or
 - 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
- (2) Concrete that has been subjected to any of the following conditions:
- 2.1. Deterioration;
 - 2.2. Ultimate deformation;
 - 2.3. Fractures;
 - 2.4. Fissures;
 - 2.5. Spalling;
 - 2.6. Exposed reinforcement; or
 - 2.7. Detached, dislodged or failing connections.
- (3) Aluminum that has been subjected to any of the following conditions:
- 3.1. Deterioration;
 - 3.2. Corrosion;
 - 3.3. Elastic deformation;
 - 3.4. Ultimate deformation;
 - 3.5. Stress or strain cracks;
 - 3.6. Joint fatigue; or
 - 3.7. Detached, dislodged or failing connections.
- (4) Masonry that has been subjected to any of the following conditions:
- 4.1. Deterioration;
 - 4.2. Ultimate deformation;
 - 4.3. Fractures in masonry or mortar joints;
 - 4.4. Fissures in masonry or mortar joints;
 - 4.5. Spalling;
 - 4.6. Exposed reinforcement; or
 - 4.7. Detached, dislodged or failing connections.
- (5) Steel that has been subjected to any of the following conditions:
- 5.1. Deterioration;
 - 5.2. Elastic deformation;
 - 5.3. Ultimate deformation;

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- 5.4. Metal fatigue; or
 - 5.5. Detached, dislodged or failing connections.
 - (6) Wood that has been subjected to any of the following conditions:
 - 6.1. Ultimate deformation;
 - 6.2. Deterioration;
 - 6.3. Damage from insects, rodents and other vermin;
 - 6.4. Fire damage beyond charring;
 - 6.5. Significant splits and checks;
 - 6.6. Horizontal shear cracks;
 - 6.7. Vertical shear cracks;
 - 6.8. Inadequate support;
 - 6.9. Detached, dislodged or failing connections; or
 - 6.10. Excessive cutting and notching.

Exceptions:

- (1) When substantiated otherwise by an approved method.
- (2) Demolition of unsafe conditions shall be permitted when approved by the building official.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.307. Handrails and guardrails.

10.200.307.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 30 inches (762 mm) in height or more than 42 inches (1,067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.308. Rubbish and garbage.

10.200.308.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every apartment, apartment building, building, accessory structure or structure, shall be free from any accumulation of rubbish or garbage.

10.200.308.2 Disposal of rubbish. Every occupant of an apartment or accessory structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers. Every owner of an apartment building, building, accessory structure, structure and premises shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

10.200.308.2.1 Rubbish storage facilities. The owner, tenant and/or occupant of every occupied premises shall supply approved covered containers for rubbish, and the owner, tenant, and/or occupant of the premises shall be responsible for the removal of rubbish.

10.200.308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on the premises without first removing the doors.

10.200.308.2.3 Burning. No person shall burn or allow to be burned any rubbish within the city.

10.200.308.2.4 Streets. No person shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any rubbish upon streets, sidewalks, alleys, storm sewers, parkways, or other public places or upon any occupied or unoccupied premises within the city.

10.200.308.2.5 Stream. No person shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any rubbish upon streams, lakes, bodies of water or ravines within the city.

10.200.308.3 Disposal of garbage. Every occupant of an apartment or accessory structure shall dispose of all garbage in a clean and sanitary manner by placing such garbage in approved containers. Every owner of an apartment building, building, accessory structure, structure and premises shall dispose of all garbage in a clean and sanitary manner by placing such garbage in approved containers.

10.200.308.3.1 Garbage facilities. The owner of every apartment building shall supply one of the following: an approved mechanical food waste grinder in each apartment; an approved incinerator unit in the apartment building available to the occupants in each apartment building or the owner shall supply approved leakproof, covered, outside garbage container and the owner of the apartment building shall be responsible for the removal of garbage.

10.200.308.3.2 Containers. The owner of every apartment building shall provide, for the disposal of garbage, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

10.200.308.3.3 Burning. No person shall burn or allow to be burned any garbage within the city.

10.200.308.3.4 Streets. No person shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any garbage upon streets, sidewalks, alleys, storm sewers, parkways, or other public places or upon any occupied or unoccupied premises within the city.

10.200.308.3.5 Stream. No person shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any garbage upon streams, lakes, bodies of water or ravines within city.

10.200.308.4 Disposal of contagious disease and inflammable or explosive rubbish and garbage. Removal of wearing apparel, bedding or other rubbish or garbage from apartments, apartment buildings, buildings, accessory structures, structures or premises thereof, where highly infectious or contagious diseases prevail shall be performed under the supervision and direction of the county health office. Such rubbish and garbage shall not be placed in containers used for regular collections or disposal.

Highly inflammable or explosive materials shall not be placed in containers for collection, but shall be disposed of as directed by the ~~director of public safety~~Fire Chief of the city at the expense of the owner or possessor thereof.

10.200.308.5 Storage and screening of trash containers and dumpsters. All rubbish and garbage containers and dumpsters must be screened by a three-sided enclosure.

Exceptions:

- (1) Dumpsters complying with the requirement of title IX, chapter 2100.

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- (2) Existing nonconforming enclosures may remain and be maintained. If at any time they are removed the new enclosure(s) shall comply with this section

10.200.308.6 Gates. If a gate is used with said enclosure(s) the gate must be wood, chain link with screening inserts or otherwise approved by the building official. Gates must be kept closed.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.309. Pest elimination.

10.200.309.1 Infestation. All apartments, apartment buildings, buildings, accessory structure and structures shall be kept free from insects and rodent infestation. All apartments, apartment buildings, buildings, accessory structure and structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

10.200.309.2 Owner. The owner of an apartment building shall be responsible for pest elimination within the apartment prior to renting or leasing the apartment.

10.200.309.3 Apartment community. The owner of an apartment building shall be responsible for pest elimination in the public or shared areas of the apartment buildings and exterior property. If infestation is caused by the failure of the occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.

10.200.309.4 Occupant. The occupant of any apartment shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the apartment building, the owner shall be responsible for pest elimination.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

DIVISION 4. LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

Sec. 10.200.401. General.

10.200.401.1 Scope. The provisions of this division shall govern the minimum conditions and standards for light, ventilation and space for occupying an apartment, apartment building, building, accessory structure or structure.

10.200.401.2 Responsibility. The owner of an apartment building shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy any apartment, apartment building or premises that do not comply with the requirements of this division.

10.200.401.3 Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the International Building Code shall be permitted.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.402. Light.

10.200.402.1 Habitable spaces. Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be eight percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight percent of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m²). The exterior glazing area shall be based on the total floor area being served.

10.200.402.2 Common halls and stairways. Every common hall and stairway in an apartment, apartment building, building, accessory structure or structure shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9,144 mm). Means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of one footcandle (11 lux) at floors, landings and treads.

10.200.402.3 Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.403. Ventilation.

10.200.403.1 Habitable space. Every habitable space shall have at least one operable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 10.200.402.1.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight percent of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m²). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

10.200.403.2 Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirement for habitable spaces as required by section 10.200.403.1, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

10.200.403.3 Cooking facilities. Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit.

Exceptions:

- (1) Where specifically approved in writing by the code official.
- (2) Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

10.200.403.4 Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

10.200.403.5 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

Exception: Listed and labeled condensing (ductless) clothes dryers.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.404. Occupancy limitations.

10.200.404.1 Privacy. Apartments, dwelling units, housekeeping units and rooming units shall be arranged to provide privacy and be separate from other adjoining spaces.

10.200.404.2 Minimum room widths. A habitable room, other than a kitchen, shall be a minimum of seven feet (2,134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of three feet (614 mm) between counterfronts and appliances or counterfronts and walls.

10.200.404.3 Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a minimum clear ceiling height of seven feet (2,134 mm).

Exceptions:

- (1) In apartments, beams or girders spaced a minimum of four feet (1,219 mm) on center and projecting a maximum of six inches (152 mm) below the required ceiling height.
- (2) Basement rooms in apartment buildings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of six feet eight inches (2,033 mm) with a minimum clear height of six feet four inches (1,932 mm) under beams, girders, ducts and similar obstructions.
- (3) Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of seven feet (2,134 mm) over a minimum of one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of five feet (1,524 mm) shall be included.

10.200.404.4 Bedroom and living room requirements. Every bedroom and living room shall comply with the requirements of sections 10.200.404.4.1 through 10.200.404.4.5.

10.200.404.4.1 Room area. Every living room shall contain at least 120 square feet (11.2 m²) and every bedroom shall contain a minimum of 70 square feet (6.5 m²) and every bedroom occupied by more than one person shall contain a minimum of 50 square feet (4.6 m²) of floor area for each occupant thereof.

10.200.404.4.2 Access from bedroom. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

10.200.404.4.3 Water closet accessibility. Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in an apartment shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

10.200.404.4.4 Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

10.200.404.4.5 Other requirements. Bedrooms shall comply with the applicable provisions of this chapter including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of

this division; the plumbing facilities and water-heating facilities requirements of Division 5; the heating facilities and electrical receptacles requirements of Division 6; and the smoke detector and emergency escape requirements of Division 7.

10.200.404.5 Overcrowding. Apartments shall not be occupied by more occupants than permitted by the minimum area requirements of Table 10.200.404.5.

Table 10.200.404.5
Minimum Area Requirements

Space	Minimum Area in Square Feet		
	1—2 occupants	3—5 occupants	6 or more occupants
Living room ^{a, b}	120	120	150
Dining room ^{a, b}	N/A	80	100
Bedrooms	Shall comply with section 10.200.404.4.1		

For SI: one square foot = 0.093 m²

- a. See section 10.200.404.5.2 for combined living room/dining room spaces.
- b. See section 10.200.404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

10.200.404.5.1 Sleeping area. The minimum occupancy area required by Table 10.200.404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with section 10.200.404.4

10.200.404.5.2 Combined space. Combined living room and dining room spaces shall comply with the requirements of Table 10.200.404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combined living room/dining room.

10.200.404.6 Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

- (1) A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m²). A unit occupied by three occupants shall have a minimum clear floor area of 320 square feet (29.7 m²). These required areas shall be exclusive of the area required by Item 2 and 3.
- (2) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and ventilation conforming to this chapter shall be provided.
- (3) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
- (4) The maximum number of occupants shall be three.

10.200.404.7 Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

DIVISION 5. PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

Sec. 10.200.501. General.

10.200.501.1 Scope. The provisions of this division shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

10.200.501.2 Responsibility. The owner of the apartment building shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any apartment, apartment building or premises, which does not comply with the requirements of this division.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.502. Required facilities.

10.200.502.1 Apartments and dwelling units. Every apartment and dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

10.200.502.2 Rooming houses. At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

10.200.502.3 Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

10.200.502.4 Employees' facilities. A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

10.200.502.4.1 Drinking facilities. Drinking facilities shall be drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

10.200.502.5 Public toilet facilities. Public toilet facilities shall be maintained in a safe sanitary and working condition in accordance with the International Plumbing Code. Except for periodic maintenance of cleaning, public access and use shall be provided to the toilet facilities at all time during occupancy of the premises.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.503. Toilet rooms.

10.200.503.1 Privacy. Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

10.200.503.2 Location. Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing a maximum of one flight of stairs and shall have access from a common hall or passageway.

10.100.503.3 Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located a maximum of one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

10.200.503.4 Floor surface. In other than apartments and dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.504. Plumbing systems and fixtures.

10.200.504.1 General. All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

10.200.504.2 Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

10.200.504.3 Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the building official shall require the defects to be corrected to eliminate the hazard.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.505. Water system.

10.200.505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code.

10.200.505.2 Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

10.200.505.3 Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

10.200.505.4 Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pip shall be properly installed and maintained on water heaters.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.506. Sanitary drainage system.

10.200.506.1 General. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

10.200.506.2 Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

10.200.506.3 Grease interceptors. Grease interceptors and automatic grease removal devices shall be maintained in accordance with this chapter and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. All records of maintenance, cleaning and repairs shall be available for inspection by the building official.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.507. Storm Drainage.

10.200.507.1 General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

DIVISION 6. MECHANICAL AND ELECTRICAL REQUIREMENTS

Sec. 10.200.601. General.

10.200.601.1 Scope. The provisions of this division shall govern the minimum mechanical and electrical facilities and equipment to be provided.

10.200.601.2 Responsibility. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises, which does not comply with the requirements of this division.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.602. Heating facilities.

10.200.602.1 Facilities required. Heating facilities shall be provided in structures as required by this section.

10.200.602.2 Residential occupancies. Apartments, apartment buildings, and 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 based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

10.200.602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more apartments, dwelling units or sleeping units on terms, either express or implied, to furnish heat to the occupants

thereof shall supply heat to maintain a minimum temperature of 68°F (20°C in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

- (1) When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
- (2) In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

10.200.602.4 Occupiable work space. Indoor occupiable work spaces shall be supplied with heat to maintain a minimum temperature of 65°F (18°C) during the period the space is occupied.

Exceptions:

- (1) Processing, storage and operation areas that require cooling or special temperature conditions.
- (2) Areas in which persons are primarily engaged in vigorous physical activities.
- (3) In maintenance shop areas.

10.200.602.5 Room temperature measurement. The required room temperatures shall be measured three feet (914 mm) above the floor near the center of the room and two feet (610 mm) inward from the center of each exterior wall.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.603. Mechanical equipment.

10.200.603.1 Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

10.200.603.2 Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

Exception: Fuel-burning equipment and appliances which are labeled for unvented operation.

10.200.603.3 Clearances. All required clearances to combustible materials shall be maintained.

10.200.603.4 Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

10.200.603.5 Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

10.200.603.6 Energy conservation devices. Devices intended to reduce fuel consumption by attachment to the fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.604. Electrical facilities.

10.200.604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and section 10.200.605.

10.200.604.2 Service. The size and usage of appliances and equipment shall serve as the basis for determining the need for additional facilities in accordance with NFPA 70. Apartments and dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

10.200.604.3 Electrical systems hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the building official shall require the defects to be corrected to eliminate the hazard.

10.200.604.3.1 Abatement of electrical hazards associated with water exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

10.200.604.3.1.1 Electrical equipment. Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the International Building Code.

Exception: The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

- (1) Enclosed switches, rated a maximum of 600 volts or less;
- (2) Busway, rated a maximum of 600 volts;
- (3) Panelboards, rated a maximum of 600 volts;
- (4) Switchboards, rated a maximum of 600 volts;
- (5) Fire pump controllers, rated a maximum of 600 volts;
- (6) Manual and magnetic motor controllers;
- (7) Motor control centers;
- (8) Alternating current high-voltage circuit breakers;
- (9) Low-voltage power circuit breakers;
- (10) Protective relays, meters and current transformers;
- (11) Low- and medium-voltage switchgear;
- (12) Liquid-filled transformers;
- (13) Cast-resin transformers;
- (14) Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
- (15) Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
- (16) Luminaires that are listed as submersible;

(17) Motors;

(18) Electronic control, signaling and communication equipment.

10.200.604.3.2 Abatement of electrical hazards associated with fire exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

10.200.604.3.2.1 Electrical equipment. Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the International Building Code.

Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.605. Electrical equipment.

10.200.605.1 Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

10.200.605.2 Receptacles. Every habitable space in an apartment shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

10.200.605.3 Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminaire. Pool and spa luminaries over 15 V shall have ground fault circuit interrupter protection.

10.200.605.4 Wiring. Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.606. Elevators, escalators and dumbwaiters.

10.200.606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building operator or be posted in a publicly conspicuous location approved by the building official. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

10.200.606.2 Elevators. In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.607. Duct Systems.

10.200.607.1 General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

DIVISION 7. FIRE SAFETY REQUIREMENTS

Sec. 10.200.701. General.

10.200.701.1 Scope. The provisions of this division shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

10.200.701.2 Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this division.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.702. Means of egress.

10.200.702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code.

10.200.702.2 Aisles. The required width of aisles in accordance with the International Fire Code shall be unobstructed.

10.200.702.3 Locked doors. All means of egress doors shall be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code.

10.200.702.4 Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grills, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.703. Fire-resistance ratings.

10.200.703.1 Fire-resistance-rated assemblies. The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

10.200.703.2 Opening protective. Required opening protective shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.704. fire protection systems.

10.200.704.1 General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the International Fire Code.

10.200.704.1.1 Automatic sprinkler systems. Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

10.200.704.2 Smoke alarms. Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in apartments and dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations.

- (1) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
- (2) In each room used for sleeping purposes.
- (3) In each story within an apartment or dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In apartments, dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single- or multiple-station smoke alarms shall be installed in other groups in accordance with the International Fire Code.

10.200.704.3 Power source. In Group R occupancies and in apartment and dwellings not regulated as Group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

10.200.704.4 Interconnection. Where more than one smoke alarm is required to be installed within an individual apartment or dwelling unit in Group R-2, R-3, R-4 and in apartments or dwellings not regulated as Group R occupancies, the smoke alarm shall be interconnected in such a manner that the activation of one alarm will activate all the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions:

- (1) Interconnection is not required in buildings which are not undergoing alterations, repairs or construction or any kind.
- (2) Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

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(Supp. No. 9)

DIVISION 8. REFERENCED STANDARDS

[Sec. 10.200.801. List of referenced standards.]

This division lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in section 10.200.102.7.

ASME

American Society of Mechanical Engineers
Three Park Avenue
New York, NY. 10016

Standard reference number A17.1/CSA B44-2007

Title Safety Code for Elevators and Escalators

Referenced in chapter section number 10.200.606.1

ASTM

ASTM International
100 Barr Harbor Drive
West Conshohocken, PA. 19428

Standard reference number F 1346-91 (2003)

Title Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs

Referenced in chapter section number 10.200.303.2

ICC

International Code Council
500 New Jersey Avenue, NW
6th Floor
Washington, DC. 20001

Standard referenced number IBC-12

Title International Building Code

Referenced in chapter section number 10.200.102.3, 10.200.201.3, 10.200.401.3, 10.200.702.3

Standard referenced number IEBC-12

Title International Existing Building Code

Referenced in chapter section number 10.200.305.11, 10.200.306.1.1

Standard referenced number IFC-12

Title International Fire Code

Referenced in chapter section number 10.200.201.3, 10.200.604.3.1.1, 10.200.604.3.2.1, 10.200.702.1, 10.200.704.1, 10.200.704.2

Standard referenced number IFGC-12

Title International Fuel Gas Code

Referenced in chapter section number 10.200.102.3

Standard referenced number IMC-12

Title International Mechanical Code

Referenced in chapter section number 10.200.102.3, 10.200.201.3

Standard referenced number IPC-12

Title International Plumbing Code

Referenced in chapter section number 10.200.201.3, 10.200.602.2, 10.200.602.3

Standard referenced number IRC-12

Title International Residential Code

Referenced in chapter section number 10.200.201.3

NFPA

National Fire Protection Association

1 Batterymarch Park

Quincy, MA. 02269

Standard referenced number 25-11

Title Inspection, Testing and Maintenance of Water-Based Fire Protection Systems

Referenced in chapter section number 10.200.704.1.1

Standard referenced number 70-11

Title National Electric Code

Referenced in chapter section number 10.200.102.4, 10.200.201.3, 10.200.604.2

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

APPENDIX A. BOARDING STANDARD

Sec. 10.200.A101. General.

10.200.A101.1 General. All windows and doors shall be boarded in an approved manner to prevent entry by unauthorized persons and shall be painted as follows

10.200.A101.1.1 Windows. Boarded up windows shall be painted a dark gray with white trim, mulleins, and muttons.

10.200.A101.1.2 Doors. Boarded up doors shall be painted white with some semblance of a doorknob or handle.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.A102. Materials.

10.200.A102.1 Boarding sheet material. Boarding sheet material shall be minimum one-half-inch (12.7 mm) thick wood structural panels complying with the International Building Code.

10.200.A102.2 Boarding framing material. Boarding framing material shall be minimum nominal two-inch by four-inch (51 mm by 102 mm) solid sawn lumber complying with the International Building Code.

10.200.A102.3 Boarding fasteners. Boarding fasteners shall be minimum three-eighths-inch (9.5 mm) diameter carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the International Building Code.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.A103. Installation.

10.200.A103.1 Boarding installation. The boarding installation shall be in accordance with approved methods and sections 10.200.A103.2 through 10.200.A103.5.

10.200.A103.2 Boarding sheet material. The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

10.200.A103.3 Windows. The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The two-inch by four-inch (51 mm by 102 mm) strong back framing material shall be cut minimum two inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening six inches minimum above the bottom and below the top of the window opening. The framing and boarding shall be predrilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

10.200.A103.4 Door walls. The door opening shall be framed with minimum two-inch by four-inch (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at a maximum of 24 inches (610 mm) on center. Blocking shall also be secured at a maximum of 48 inches (1,219 mm) on center vertically. sheet material shall be secured with screws and nails alternating every six inches (152 mm) on center.

10.200.103.5 Doors. Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an approved manor.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.200.A104. Referenced standards.

ICC

International Code Council
500 New Jersey Avenue, NW
6th Floor
Washington, DC. 20001

Standard referenced number IBC-12

Title International Building Code

Referenced in chapter section number 10.200.A102.1, 10.200.A102.2, 10.200.A102.3

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

CHAPTER 300. RENTAL REGISTRATION

Sec. 10.300.010. Title.

The regulations of this chapter shall be known as the Rental Registration Requirements for the City of Gladstone, Clay County, Missouri hereinafter referred to as "this chapter."

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.300.020. Scope.

The provisions of this chapter shall apply to all apartment buildings and/or apartment communities herein after referred to as "apartments" in the City of Gladstone.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.300.030. Intent.

This chapter shall be construed to secure its express intent, which is to establish rental registration for apartments as a mechanism to communicate with owners of apartments in the City of Gladstone for all purposes, including building code enforcement, local ordinances and state laws.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.300.040. Severability.

If a section, subsection, sentence, clause, or phrase of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.300.050. Applicability.

10.300.050.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this chapter and any ordinance, regulation or requirement, the provisions of this chapter shall apply. Where in a specific case, different sections of this chapter specify different requirements, the most restrictive will govern.

10.300.050.2 Existing remedies. The provisions of this chapter shall not be construed to abolish or impair existing remedies of the jurisdiction, its officers, or agencies. Any requirement of this chapter that is inconsistent with any other applicable local, state, or federal law, rule or regulation, the most stringent requirement shall apply.

10.300.050.3 Application of reference. Reference to divisions or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such division, section, or provision of this chapter.

10.300.050.4 Other laws. The provisions of this chapter shall not be deemed to nullify any provisions of local, state, or federal law. Sec. 10.300.060. 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. Where terms are not defined in this chapter and are defined in the building code, residential code, or city ordinances or state law, such terms shall have the meaning ascribed to them as in those regulations and laws. Where terms are not defined through the methods authorized by this chapter, such terms shall have ordinarily accepted meanings as the context implies.

Where terms are not defined in this chapter and are defined in the International Building Code, International Existing Building Code, International Residential Code, International Property Maintenance Code or title X, chapter 200, such terms shall have the meanings such as ascribed to them as stated in those codes.

Apartment means a room used as a dwelling unit and located in a building containing only such rooms or suites with necessary passage and hallways.

Apartment building ("hereinafter "apartments") means a building containing more than four apartments.

Apartment community means property or premises under common ownership with two or more apartment buildings designed, built, rented, leased, let or hired out to be occupied or that are occupied, as residences.

Building official means the officer who is charged with the administration and enforcement of the building and residential code.

City means the City of Gladstone, Missouri.

Days means consecutive calendar days.

Dwelling unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Locally means within 40 road/driving miles distance of the subject property.

Owner means any person, sole proprietorship, general partnership, corporation, limited liability company or limited liability partnership having a legal interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court or by the trustee of any trust owning property.

Premises means a lot, plot or parcel of land, easement or public way, including any structures thereon.

Property means any improved real property, or portion thereof, located in the City of Gladstone, including the buildings or structures located on the property regardless of condition.

Registered representative means a person located locally and designated by the property owner as the owner's representative for purposes of accepting notice, service, and summons on behalf of the property owner and for otherwise ensuring compliance with the requirements of this chapter.

Registration form means the form provided to owners for purposes of compliance with this chapter; all registration forms must be signed by the property owner.

Residential rental property means a building, or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, multiple dwellings, mobile homes, house trailers, boarding and lodging houses, apartment houses, and apartment hotels, but not hotels, motels, recreational vehicles or fifth wheels unless they are being used legally as a primary residence, that an owner rents, leases or allows another to use or occupy.

Vacant means a building/structure that is not legally occupied.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.300.70. Registration.

10.300.070.1 Apartments. The owner of any apartments in the city shall register such property annually with the building official or his or her designee on forms provided by the city.

- (1) Beginning on January 1, 2014, and every succeeding year thereafter, all owners of apartments in the city shall submit the required registration forms and fees to the city no later than January 31.
- (2) Registration required by this chapter shall be valid until December 31 of the registration year.
- (3) The registration shall contain the full legal name of the property owner, the direct street/office mailing address of the property owner (no P.O. Box), phone number, cell number, fax number and email address and the address, phone number, and email address of a local office, if applicable.
- (4) If the owner is not an individual or a sole proprietorship and/or does not reside locally or does not maintain a local business office, the owner shall designate a registered representative by name, street address, phone number, cell number and email address.
- (5) An owner that has registered one or more apartments under this chapter must report any changes of information provided on any submitted registration form within 30 days of the change, including a change in ownership of any listed apartments.
- (6) The owner shall utilize a crime free lease addendum for all apartments.

10.300.070.2 Vacant properties. Any Apartment building located within the City and that has been vacant for more than 45 days shall register said vacant property with the building official or his or her designee on forms provided by the city in accordance with title IX, chapter 2600.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.300.080. Responsibilities of owner or registered representative.

The owner or registered representative, if applicable, are legally responsible for operating apartments in compliance with all the provisions of the codes and ordinances of the city and laws of the State of Missouri, and shall also be responsible for providing access to such property for the purpose of making any inspections necessary to ensure compliance with the codes and ordinances of the city and laws of the State of Missouri. All official notices of the city may be served upon the registered representative or owner, and any notice so served on the registered representative shall be deemed to have been served upon the owner. Notices shall be addressed to owner or registered representative at the address provided in section 10.300.070.1c. Either the registered representative or owner shall be available at all times for purposes of controlling activities or conduct which occurs on the premises.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.300.090. Maintenance requirements.

Apartments shall be maintained, both internally and externally, in compliance with all federal, state, and local laws, regulations, ordinances, and codes, including but not limited to title X, chapter 200, and title II, chapter 110, Nuisances of the City Code of Ordinances. Adherence to this section does not relieve the owner(s) or registered representatives of any obligations set forth in any covenants, conditions, restrictions or homeowners' association rules and regulations that may apply to the apartments.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.300.100. Compliance with other authority.

The requirements of this chapter are in addition to any other maintenance measures as required by the city's Code of Ordinances. The requirement of this chapter shall not serve to lessen or abrogate any other applicable provisions of the city's Code of Ordinances.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.300.110. Jurisdiction.

By registering apartments the owner consents to venue and jurisdiction before the Gladstone Municipal Court a division of the Clay County, Missouri, Circuit Court.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.300.120. Registration fees.

The fees for registration shall be in accordance with the schedule of fees and charges as adopted by the city.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

Sec. 10.300.130. Violations.

10.300.130.1. Unlawful acts. It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provisions of this title.

10.300.130.2. Penalties. Any owner or registered representative who is found not to have complied with the registration in a timely fashion or who is found to have provided false information on the registration form herein may be subject to a fine not to exceed \$50.00 for the first violation and \$100.00 for each additional violation not to exceed \$500.00 for any calendar year.

(Ord. No. 4.250, §§ 1, 2, 9-9-2013)

CHAPTER 600 FIRE PREVENTION REGULATIONS

ARTICLE 1. FIRE CODE

SECTION 9.600.010 ADOPTION OF THE 2018 INTERNATIONAL FIRE CODE

That a certain document, one (1) copy of which is on file in the office of the City Clerk of the City of Gladstone, Clay County, Missouri, in perpetuity, being marked and designated as the *International Fire Code*, 2018 edition, including Appendix Chapters:

- Appendix B, Fire-Flow Requirements for Buildings,
- Appendix C, Fire Hydrant Locations and Distributions,
- Appendix D, Fire Apparatus Access Roads,
- Appendix E, Hazard Categories,
- Appendix F, Hazard Ranking,
- Appendix G, Cryogenic Fluids – Weight and Volume Equivalents,
- Appendix H, Hazard Materials Management Plan (HMMP) and Hazardous Materials
Inventor Statement (HMIS) Instructions,
- Appendix I, Fire Protection Systems – Noncompliant Conditions, and
- Appendix J, Building Information Sign.

as published by the International Code Council, be and is hereby adopted as the Fire Code of the City of Gladstone, Clay County, Missouri, for regulating and governing the safeguard of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the of the City Clerk of the City of Gladstone, Clay County, Missouri are hereby referred to, adopted, and made a part hereof, as if fully set out in the legislation, with the amendments, additions, and deletions, if any, prescribed in Section 9.600.020 of this chapter.

That if any section, subsection, sentence, clause or phrase of this legislation is, for any reason, held to be unconstitutional, or otherwise be declared invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof; irrespective of the

fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional, or otherwise be declared invalid..

That nothing in this legislation or in the Fire Code hereby be adopted shall be construed to affect any suit or proceeding pending in any court, or right acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

SECTION 9.600.020
AMENDMENTS, ADDITIONS, AND DELETIONS
TO THE 2018 INTERNATIONAL FIRE CODE

9.600.020.1 AMENDMENTS.

The followings sections of the 2018 International Fire Code are omitted and not hereby incorporated as the follow identically numbered sections are adopted in lieu thereof:

[A] 101 Title.

These regulations shall be known as the Fire Code of the City of Gladstone, Clay County, Missouri, hereinafter referred to as “this code”.

[A] 102.7 Referenced codes and standards.

The codes and standards referenced in this code shall be those that are listed in Chapter 80, and such code and standards shall be considered to be part of the requirements of this code to the prescribed extent of each such referenced and as further regulated in Sections 102.7.1 and 102.7.2. In addition to the codes and standards referenced in Chapter 80 the following codes and standards shall be considered to be part of the requirements of this code:

- NFPA 3: Recommended Practice for Commissioning of Fire Protection and Life Safety Systems,
- NFPA 10: Standard for Portable Fire Extinguishers,
- NFPA 13: Standard for Installation of Sprinkler Systems,
- NFPA 14: Standard for the Installation of Standpipe and Hose Systems,
- NFPA 20: Standard for the Installation of Stationary Pumps for Fire Protection,
- NFPA 24: Standard for the Installation of Private Fire Service Mains and Their Appurtenances,
- NFPA 25: Standard for the Inspection, Testing, and Maintenance of Water Based Fire Protection Systems,
- NFPA 58: Liquid Petroleum Gas Code,

- NFPA 72: National Fire Alarm and Signaling Code,
- NFPA 99: Health Care Facilities Code, and

SECTION 109 MEANS OF APPEAL

109.1 General.

In order to hear and decide appeals or orders, decisions, or determinations made by the *fire marshal* relative to the application and interpretation of this chapter; the Uniform Code Board of Appeals is hereby authorized to conduct said appeals.

109.2 Application for appeal.

Persons directly affected by a decision of the *fire marshal* or a notice issued under this code shall have the right to appeal to the Uniform Code Board of Appeals, provided that a written application is filed on a form furnished by the Community Development Department for that purpose. The application for appeal shall be submitted to the *fire marshal* within ten (10) days of orders, decisions, or determination therefore made by the *fire marshal*.

109.3 Authority on appeals.

See Title I, Chapter 110, Article 4 of the City of Gladstone's Code of Ordinances.

110.4 Violation penalties.

Any person who shall violate a provisions of this code, fail to comply with any of the requirements thereof or erect, install, alter or repair or do work in violation of the *approved construction documents* or directive of the *fire code official*, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor, punishable as provided for in Section 1.100.140 of the Gladstone Code of Ordinances. The imposition of one (1) penalty shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each day that a violation continues after due notice has been served shall be deemed a separate offense.

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 guilty of a misdemeanor, punishable as provided for in Section 1.100.140 of the Gladstone Code of Ordinances.

307.4.1 Bonfires.

Bonfires shall be prohibited with the jurisdiction.

308.1.4 Open-flame cooking devices.

Open-flame cooking, heating, or decorative devices, fueled by charcoal, wood, propane gas, natural gas, or other such fuels, and the fuels for such devices, shall not be operated, stored or located on decks, balconies, porches, and patios, or within ten (10) feet of any dwelling unit

within any apartment building; as defined in Title X, Chapter 200, Division 2, Section 10.200.202.

503.3 Marking.

Where required by the *fire code official*, *approved* signs or other *approved* notices or markings that include the words NO PARKING – FIRE LANE shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which *fire lanes* are designated shall be maintained in a clean and legible condition at all times and be replaced, repaired, or repainted when necessary to provide adequate visibility.

The entire face and top of curb shall be painted either Red with White lettering or Yellow with Red lettering. Lettering shall be 4 inches high with a minimum stroke width of $\frac{3}{4}$ inch and shall be spaced no further apart than 25 feet along the face of the curb.

In the absence of curb and where specified by the *fire code official* shall be marked with a 10-inch Red strip with White lettering or a Yellow Strip with Red lettering. Lettering shall be 4 inches high with a minimum stroke width of $\frac{3}{4}$ inch and shall be spaced no further apart than 25 feet.

If vertical signage is used, the minimum cumulative size shall be 96 square inches. The sign shall contain the words “No Parking” or the universal symbol for no parking along with the words “Fire Lane”. The sign shall be white with red lettering. The bottom of the sign shall be mounted 7 feet above grade and outer edge of the sign shall be 2 feet to 3 feet from the front face of the curb or edge of pavement when no curb present. Signs shall be spaced no further apart than 20 feet.

505.1 Address identification.

New and existing buildings shall be provided with *approved* address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 8 inches high with a minimum stroke width of $\frac{1}{2}$ inch. Where required by the *fire code official*, address identification shall be provided in additional *approved* locations to facilitate emergency response. Where access is by means of a private road and the building cannot be view from the *public way*, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained.

Exceptions:

1. Residential Group R-2 and R-3 shall be a minimum of 4 inches.
2. Home Day Care Facilities approved by a Special Use Permit shall be 6 inches high.
3. Existing non-conforming uses shall not be required to modify their addresses; unless they are so worn, faded, or otherwise required to be replaced by the *fire code official* for due cause.

506.1.1 Locks.

An *approved* lock, lockable device or shutoff device shall be installed on the following:

The following shall require a key box or an approved lockable or shutoff device.

1. All fire department connections and standpipe connections.

Exception: Existing connections shall be converted by January 1, 2023 or if the *fire code official* finds missing cap(s) then all connections shall be brought into compliance promptly.

2. Automatic entrance gates or similar barriers shall be equipped with an approved fire department operating/opening device.
3. Non-automatic entrance gates or similar barriers.
4. Excessive travel from entrance or other exigent circumstances exist.
5. Electrical service(s) in excess of 200 amps.

507.5.2 Inspection, testing and maintenance.

Fire hydrant systems shall be subject to periodic testing as required by the *fire code official*. Fire hydrant systems shall be maintained in an operative condition at all times and shall be repaired where defective. Additions, repairs, *alterations* and servicing shall comply with *approved* standards and NFPA 291. Records of tests and required maintenance shall be maintained.

507.5.3 Private fire service mains and water tanks.

Private fire service mains and water tanks shall be periodically inspected, tested and maintained in accordance with NFPA 25 and NFPA 291 at the following intervals:

1. Private fire hydrants of all types: Inspection annually and after each operation; flow test and maintenance annually.
2. Fire service main piping: Inspection of exposed, annually; flow test every 5 years.
3. Fire service main piping strainers: Inspection and maintenance after each use.

Records of inspections, testing and maintenance shall be maintained.

507.5.5 Clear space around hydrants.

A 5-foot clear space shall be maintained around the circumference of the fire hydrants, except as otherwise required or *approved*.

Exception: No tree shall be planted within ten (10) feet of any fire hydrant.

509.1 Identification.

Fire protection equipment shall be identified in an *approved* manner. Rooms containing controls for mechanical systems, sprinkler riser and valves, or other fire detection, suppression or control elements shall be identified for the use of the fire department. *Approved* signs required to identify fire protection equipment and equipment location shall be constructed of durable materials, permanently installed and readily visible. Signage shall be affixed to the doors of these rooms. The signage shall be red letters a minimum of 4 inches high with a minimum stroke width of ½ inch. The *fire code official* may require trailblazing signage from the main entrance to these rooms.

901.603.2 Test Documentation.

When required inspection, testing, or maintenance occurs on any fire protection system, testing documents shall be submitted to the fire marshal within thirty (30) days of completion through an approved third-party inspection agency. Reporting parties shall pay any fees associated with said service to the third-party inspection agency.

912.2 Location.

With respect to hydrants, driveways, buildings and landscaping, fire department connections shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of the fire department connection shall be located within 75 feet of a fire hydrant and within 10 feet from a paved surface and shall be *approved* by the *fire code official*.

912.5 Signs.

A metal sign with raised letters not less than 4 inches in size shall be mounted on all fire department connections serving automatic sprinklers, standpipes or fire pump connections. Such signs shall read: AUTOMATIC SPRINKLERS or STANDPIPES or TEST CONNECTION or a combination thereof as applicable. Where the fire department connection does not serve the entire building, a sign shall be provided indicating the portions of the building served.

1004.9 Posting of occupant load.

Every room or space that is an assembly occupancy shall have the *occupant load* of the room or space posted in a conspicuous place, near the main *exit* or *exit access* doorway from the room or space. Posted signs shall be an *approved* legible permanent design using Arabic numerals or alphabet letters with letters a minimum height of 3 inches and a minimum stroke width of ½ inch.

5601.1.3 Fireworks.

The possession, manufacture, storage, sale, handling and use of fireworks are prohibited.

Exceptions:

1. Storage and handling of fireworks as allowed in Section 5604.
2. Manufacture, assembly and testing of fireworks as allowed in Section 5605.

3. The use of fireworks for fireworks displays as allowed in Section 5608.
4. The possession, storage, sale, handling and use of specific types of Division 1.4G fireworks where allowed by applicable laws, ordinances and regulations, provided that such fireworks and facilities comply with NFPA 1124, CPSC 16 CFR Parts 1500 and 1507, and DOTn 49 CFR Parts 100-185, as applicable for consumer fireworks.
5. The use or possession of fireworks of any kind within the jurisdiction's parkland is permitted, by permit, only when authorized in writing by the Parks, Recreation and Cultural Arts Director for outdoor special events and approved by the City Council.

5601.2.2 Sale, retail display, use and possession.

Within the jurisdiction, *persons* shall not:

1. Construct a retail display or offer for sale *explosives, explosive materials* or fireworks.
2. Offer for sale, sell, purchase, use, ignite, display or discharge any fireworks.
3. Possess any fireworks.

Exception: Fireworks safely stored within a home or within the locked truck or other locked storage compartment of a motor vehicle.

4. Permit the sale, purchase, use, ignition, display, explosion or possession of fireworks by another person upon any real property they are in control of.
5. Display or cause to be displayed public fireworks for entertainment purposes.

5601.2.4.1 Blasting.

Blasting is prohibited within the jurisdiction.

5704.2.9.6.1 Locations where above-ground tanks are prohibited.

Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited, provided that an application for a permit may be filed for a tank with a capacity of up to 1,000 gallons if such tank will be located on any property zoned for commercial or industrial use; or property used for industrial purposes, regardless of the property's zoning. Not more than 1,000 gallons of combustible or flammable liquid shall be stored on any one lot, tract, parcel or premises.

5706.2.4.4 Locations where above-ground tanks are prohibited.

Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited, provided that an application for a permit may be filed for a tank with a capacity of up to 1,000 gallons if such tank will be located on any property zoned for commercial or industrial use; or property used for industrial purposes, regardless of the property's zoning. Not more than 1,000 gallons of combustible or flammable liquid shall be stored on any one lot, tract, parcel or premises.

5806.2 Limitations.

Storage of flammable *cryogenic fluids* in stationary containers outside of buildings is prohibited, provided that an application for a permit may be filed for a tank with a capacity of up to 1,000 gallons if such tank will be located on any property zoned for commercial or industrial use; or property used for industrial purposes, regardless of the property's zoning. Not more than 1,000 gallons of combustible or flammable liquid shall be stored on any one lot, tract, parcel or premises.

6104.2 Maximum capacity within established limits.

Storage of liquefied petroleum gas is prohibited, provided that an application for a permit may be filed for a tank with a water capacity of 2,000 gallons if such tank will be located on property with an M-1 use. Not more than 2,000 gallons, water capacity, of liquefied petroleum gas shall be stored on any lot, tract, parcel or premises.

SEC. 9.600.020.2 ADDITIONS.

The following sections are hereby incorporated and adopted in the 2018 International Fire Code:

104.11.4 Temporary directive.

A dangerous condition not specifically addressed by this code but in the opinion of the ~~Director of Public Safety~~ Chief of Police, Fire/~~EMS-Division~~ Chief, and/or the *fire code official*, is a dangerous condition that relates to the intention of this code and that constitutes a distinct hazard to life or property; a temporary directive may be issued to address such condition. The directive shall expire no later than sixty (60) days from the date of issuance.

107.2.1.1 Priority inspections.

An inspection request that is time sensitive; which the *fire code official* reprioritizes to occur out of a routine inspection schedule.

107.5 State required inspections:

The *fire code official* may require documentation that the following items have been inspected annually as required by the State Fire Marshal's Office:

1. Fire sprinkler systems,
2. Daycares,
3. Residential institutions,
4. Amusement rides,
5. Pressure vessels, and
6. Elevators.

307.1 Open burning; permitted.

Open burning, of *approved* materials, within the jurisdiction shall be contained to approved fire pits, approved outdoor fireplaces, or barbeque grills.

307.1.2 Prohibited burning.

The following shall be prohibited within the jurisdiction:

1. The burning of rubbish, garbage, or yard waste. (Include leaves, grass, and other yard debris.)

Exception: Burning may be done in an incinerator approved by the local health department and the jurisdiction.

2. Persons who willfully set fire to any grass, weeds or any other flammable materials outdoors.

Exceptions:

- a. The use of charcoal, lighter fluid, wood chips and similar flammable materials for the sole use of cooking or smoking food. Such materials shall be located within a device specifically designed for this purpose, located away from combustible materials, attended at all times and extinguished immediately after completion of use.
 - b. Temporary UL-approved heating devices located away from combustible materials, be attended by competent person and compliant with this code.
 - c. The use of fifty-five (55) gallon barrels or similar devices containing a minimal amount of untreated natural wood construction waste may be utilized for warming of construction workers. Such containers shall be located away from combustible materials, attended at all times and extinguished immediately after completion of use. This method of warming is only applicable to construction sites possessing a valid building permit, which authorizes the construction of structures exceeding 1,200 square feet and may be prohibited by the jurisdiction at any time upon written notice to the holder of the building permit.
 - d. Fire pits in compliance with this code.
3. The burning of solid waste as defined by applicable federal, state and local regulations.

307.1.3 Fire hazard emergency.

The City Manager may declare a fire hazard emergency and prohibit open burning of any material for the protection of the health, welfare and safety of the jurisdiction. Such prohibition against open burning shall continue until rescinded by the City Manager.

307.4.3.1 Fire pits, fireplace; outdoor.

Fire pits and fireplaces located outdoors within the jurisdiction shall observe the following:

1. Must be a minimum of fifteen (15) feet from combustible materials.
2. Shall not be places under trees and/or overhead wires.
3. Fire pits shall be a minimum of twelve (12) inches in height and not higher than twenty-four (24) inches; made of noncombustible materials.
4. Fire pits shall have a maximum diameter of thirty-six (36) inches.
5. Flames shall not exceed eighteen (18) inches above the top of the fire pit.
6. Flames shall not exceed the top of the fireplace flue.
7. A readily available water source or fire extinguisher adequate for fire extinguishment.
8. Use of fire pits and fireplaces shall be attended at all time by an adult.
9. Flying embers shall be kept to a minimum.
10. Fire pits and fireplaces shall be maintained in good working order.
11. It is prohibited to burn rubbish, garbage, trash, yard waste, and construction material.
12. The use of fire pits and fireplaces is prohibited when there is a burn ban in place, or the wind speed is in excess of 15 MPH.

307.6 Parkland.

The igniting and maintaining of any fire on parkland is prohibited.

Exception: In designated grills or other fireplaces provided by the jurisdiction as prescribed:

1. Fire shall not be left unattended.
2. Fire shall be extinguished after use.

307.6.1 Fire danger.

The jurisdiction may prohibit all fires on parkland by posting of signs to that effect during designated periods of drought.

504.4 Signage.

Door(s) leading from a common area or hallway to the building roof access shall have signage affixed to the door(s). The signage shall be letters a minimum of 4 inches (102 mm) high with a minimum stroke width of ½ inch (12.7 mm). The letters shall be contrasting to the background.

506.1.1.1 Decals.

The *fire code official* may place a decal on doors servicing occupancies with any of the boxes, locks or devices in sections 506.1 and 506.1.1.

507.2.1.1 Fire hydrant makings.

Fire hydrants located on private fire service mains and/or private water mains shall have their bases painted red and the caps shall be painted as follows:

1. 2-inch main shall be painted Red.
2. 4-inch main shall be painted Orange.
3. 6-inch main shall be painted Green.
4. 8-inch or larger main shall be painted Blue.

507.5.7 Crossing or driving over fire hose.

It shall be unlawful for the driver of any vehicle to drive over an unprotected fire hose when laid down on any street, alley, parking lot, or private way, or cause to be done or cause to be done in violation of this section.

Exception: With approval of the Fire Department official in charge on scene.

606.9 Elevator machine room access and signage.

An *approved* means of access shall be provided to the elevator machine rooms, control rooms, control spaces and machinery spaces. The door(s) to these rooms shall have signage affixed to the door(s). The signage shall be red letters a minimum of 4 inches (102 mm) high with a minimum stroke width of ½ inch (12.7 mm). The *fire code official* may require trailblazing signage from the main entrance to the elevator mechanical room.

903.2.12.1 Cumulative renovation.

In consideration of whether an *automatic sprinkler system* must be installed in a building, where any adopted code defines the threshold for renovations of 50% or more of a floor or building for applicability of codes in consideration of an *automatic sprinkler system*, the 50% shall be defined as the cumulative sum of the floor and/or building area for all work performed and/or permits obtained since January 1, 2015.

912.2.3 New buildings.

The exterior fire department connection, building or remote connection, shall be indicated by an *approved* sign mounted to or adjacent to the fire department connection. Such sign shall have letters “FDC” not less than 6 inches (152 mm) in height. The letters shall be white reflective lettering on a red retro-reflective background.

913.1.1 Required. Fire pumps shall be required for commercial buildings that require fire sprinkler systems where the following conditions exist:

1. The building exceeds 2 stories in height measured from any ground surface level. This shall include a 2 story building with a basement exposed on at least one side of the building with a walk-out door or window, and
2. The static pressure on the fire main serving the building sprinkler system has less than 80 psi (551.58 kPa) as measured in the highest hours of demand annually for the system or residual pressure below 60 psi (413.69 kPa). In absence of any specific information the demand hour shall be considered the highest hour between Noon and Midnight in during the first week of August.

Where fire pumps are required they shall be electric motor driven; unless otherwise specifically approved by the *fire code official*.

1022.2.3 Numbering.

Where a building or structure, either with one or multiple tenants, has three or more exits, a sequential numbering system shall be required. The numbers shall be affixed to the doors on the interior and exterior. The numbers shall be red with a minimum height of 4 inches (102 mm) and a minimum stroke width of ½ inch (12.7 mm).

3304.1.1 Ignitable and combustible materials.

No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or materials within or against any building, vehicle, or under any tree or in underbrush.

5608.2.3 Bond required.

Prior to issuing any permit for a fireworks display, the applicant shall file with the jurisdiction a surety bond or a public liability policy in the amount requested by the jurisdiction having authority, for the purpose of the payment of damages to property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgement results. The surety bond or public liability policy shall list the jurisdiction having authority as additionally insured.

SECTION D109 PROTECTION OF TRAFFIC

D109.1 Trenches and excavations.

Street/road/highway construction within or adjacent to fire apparatus access roads shall have erected and maintain suitable timber barriers to confine earth from trenches and excavations in order to encroach upon streets/roads/highways as little as possible. The construction site shall be maintained with adequate and safe crossings over trenches and excavations under improvement to accommodate vehicular and pedestrian traffic.

SEC. 9.600.020.3 DELETIONS.

The following sections of the 2018 International Fire Code are omitted and not hereby incorporated:

1103.2 Emergency responder radio coverage in existing buildings.

ARTICLE 2. AUTOMATED EXTERNAL DEFIBRILLATOR PROGRAM

DIVISION 1 SCOPE AND ADMINISTRATION

PART 1 – SCOPE AND APPLICATION

SECTION 9.600.101 GENERAL

9.600.101.1 Title.

This article shall be known as Automated External Defibrillator (AED) Program of the City of Gladstone, Clay County, Missouri, hereinafter referred to as “this article”

9.600.101.2 Scope.

The provisions of this chapter are to provide within easily accessible locations, within building in this jurisdiction, AED’s for use by capable people.

9.600.101.3 Intent.

The purpose of this article is to create and maintain the City’s public AED program and establish guidelines for use, training, and data collection, as well as requirements and procedures for implementing and using AED’s by qualified laypersons within the City.

SECTION 9.600.102 APPLICABILITY

9.600.102.1 General.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of this article specify different requirements, the most restrictive shall govern.

9.600.102.2 Other laws.

The provision of this article shall not be deemed to nullify any provisions of local, state or federal law.

9.600.102.3 Application of references.

Reference to division or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this chapter.

9.600.102.4 Referenced codes and standards.

The codes and standards referenced in this chapter shall be considered as part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 9.300.102.4.1 and 9.300.102.4.2.

9.600.102.4.1 Conflicts.

Where conflicts occur between provisions of this chapter and the referenced standards, the provisions of this chapter shall apply.

9.600.102.4.2 Provisions in referenced codes and standards.

Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this chapter, the provisions of this chapter, as applicable, shall take precedence over the provisions in the referenced code or standard.

9.1100.102.5 Partial invalidity.

In the event that any part or provision of this chapter is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

9.1100.102.6 Existing structures.

The legal use of any AED existing on the date of adoption of this article shall comply with Section 9.600.301.1.

SECTION 9.600.103

DUTIES AND POWERS OF FIRE ~~DIVISION~~ CHIEF AND PROGRAM MANAGER

9.600.103.1 General.

The ~~Director of Public Safety~~, Fire ~~Division~~ Chief and *program manager* are hereby authorized to enforce the provisions of this article and shall have the authority to render interpretations of this article, and to adopt policies, procedures, rules and regulations in order to clarify the application of its provisions. Such interpretations, policies, procedures, rules and regulations shall be in compliance with the intent and purpose of this article and shall not have the effect of waiving requirements specifically provided for in this article.

9.600.103.2 Duties; ~~Director of Public Safety~~ Fire Chief.

The ~~Director of Public Safety~~ Fire Chief or his/her designee shall have the following duties:

1. Shall have the right to audit any use of an *automated external defibrillator* that is subject to this article. The ~~Director of Public Safety~~ Fire Chief or his/her designee may review maintenance and repair records, training records, reports of cardiopulmonary resuscitation or *automated external defibrillator* use, and any other records necessary to determine compliance with the terms of this article and any corresponding regulations. The audit may also include gathering clinical data and information from the person who

used the *automated external defibrillator*, and from the *automated external defibrillator* itself.

2. May delegate duties to appropriate personnel, including the *medical director* or other persons or entities determined by the ~~Director of Public Safety~~ Fire Chief to be qualified to oversee the operations of the *public access defibrillation program*.
3. Shall review or have reviewed applications of the *public access defibrillation program* and certify only those programs that establish conformance with the *public access defibrillation program* duties, defined by this article and any adopted regulations. Such certification shall be effective for twelve (12) months following such certification, unless it is revoked as a result of an audit by the Fire ~~Division~~ Chief or *program manager*, which determines that the *public access defibrillation program* has failed to comply with the *public access defibrillation program* regulations outlined in Section 9.600.302. Each *public access defibrillation program* must apply and be re-certified every twelve (12) months.

9.600.103.3 Duties; program manager.

The *program manager* shall have the following duties:

1. Shall maintain a list of authorized *public access defibrillation sites*, which shall be available to the Gladstone Fire ~~and EMS Division~~ Department.
2. Shall have the right to audit any use of an *automated external defibrillator* that is subject to this article. The *program manager* may review maintenance and repair records, training records, reports of cardiopulmonary resuscitation or *automated external defibrillator* use, and any other records necessary to determine compliance with the terms of this article and any corresponding regulations. The audit may also include gathering clinical data and information from the person who used the *automated external defibrillator*, and from the *automated external defibrillator* itself.

DIVISION 2 DEFINITIONS

SECTION 9.600.201 GENERAL

9.600.201.1 Scope.

Unless otherwise expressly stated, the following words and terms shall, for the purpose of this article, have the meaning shown in this section.

9.600.201.2 Interchangeability.

Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

9.600.201.3 Terms defined in other codes.

Where terms are not defined in this chapter and are defined in the International Fire Codes as adopted by the jurisdiction, such terms shall have the meanings ascribed to them as in that code.

9.600.201.4 Terms not defined.

Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

SECTION 9.600.202 GENERAL DEFINITIONS

AUTHORIZED USER. Any person who has met the training standards of this article, and is authorized to use an AED by the program manager in accordance with this article.

AUTOMATED EXTERNAL DEFIBRILLATOR (AED). An external defibrillator capable of cardiac rhythm analysis that will charge and, with or without further operator action, deliver a shock after electronically detecting that a “Shockable Rhythm” is present.

~~**FIRE DIVISION CHIEF.** The chief of the Fire and EMS Division, as appointed by the Director of Public Safety of the City of Gladstone.~~

HEALTH CARE FACILITY. A hospital, nursing home, physician’s office or other fixed location at which medical and health care services are routinely preformed.

MEDICAL DIRECTOR. A physician, appointed by the City Manager, who is trained to operate, maintain, and review usage of *AED*’s and who develops, implements, and maintains the medical control provisions of this article and any regulations promulgated pursuant thereto.

PROGRAM MANAGER. A person, appointed by the ~~Director of Public Safety~~ Fire Chief, who works with the *medical director* to oversee the administration of the *PAD program* at specific sites within the City of Gladstone.

PUBLIC ACCESS DEFIBRILLATION (PAD) PROGRAM. The program to provide and utilize *AED*’s by rescuers to treat victims of cardiac arrest in public or private places, including first aid providers not associated with the pre-hospital emergency medical services provider for the City; staff of nursing homes not otherwise exempt by this article, and similar activities.

PUBLIC ACCESS DEFIBRILLATION (PAD) SITE. An agency, business, organization, individual, or other entity that sponsors a *PAD program* and allows placement of an *AED* on its premises.

DIVISION 3 REGULATIONS

SECTION 9.600.301 AUTOMATED EXTERNAL DEFIBRILLATOR (AED)

9.600.301.1 AED's; use of.

No business, entity, institution, or person shall begin a *public access defibrillator program* or maintain an existing *public access defibrillator program* unless certified by the ~~Director of Public Safety~~ Fire Chief or his/her designee.

Exceptions:

1. Hospitals licensed by the State of Missouri.
2. Physicians licensed by the State of Missouri as a physician pursuant to RSMo. Ch. 334.
3. Nurses licensed by the State of Missouri as a nurse pursuant to RSMo. Ch. 335.
4. Mutual aid providers working for an ambulance service, fire department, or other emergency medical services (EMS) agency that are called into the City to provide mutual aid to the City's pre-hospital emergency medical services.
5. Person(s) working for the City of Gladstone's Fire ~~and EMS Division~~ Department that are trained and approved by the City to provide pre-hospital emergency medical services.
6. *Health care facilities* that are properly licensed by the State of Missouri.

SECTION 9.600.302 PUBLIC ACCESS DEFIBRILLATION PROGRAM REGULATIONS

9.600.302.1 General.

Any person, business, entity, or institution acquiring an *automated external defibrillator* shall adhere to the following regulations:

9.600.302.1.1 Training.

Authorized use of an *automated external defibrillator* shall be only by persons who have received training by the American Heart Association, American Red Cross, or an equivalent nationally recognized course approved by the *medial director*, which includes training in the identification of cardiac arrest, administration of cardiopulmonary resuscitation, and the use of *automated external defibrillators*.

9.600.302.1.2 Maintenance.

Automated external defibrillators shall be maintained and tested in accordance with the manufacture's operational guidelines, and maintain records of the same. Records of maintenance and testing shall be made available to the ~~Director of Public Safety,~~ Fire ~~Division~~ Chief and/or *program manager* upon request.

9.600.302.1.3 Automated external defibrillator; notification of use.

Any person who renders emergency care or treatment outside of a health care facility or emergency medical services system by using an *automated external defibrillator* must notify the emergency medical services system through proper use of the 911 system or other means, to seek pre-hospital emergency medical services, as soon as possible.

9.600.302.1.4 Medical control.

Anyone acquiring an *automated external defibrillator* for use outside a *health care facility* shall have an authorized physician to:

1. Provide the medical protocol for the use of the device;
2. Review and advise regarding the training and skill maintenance of authorized users; and
3. Review situations where the *automated external defibrillator* is used to render emergency care.

Such protocol will be made available to the ~~Director of Public Safety~~ Fire Chief or his/her designee upon request. The City's *medical director* may be utilized to satisfy requirements of this subsection.

9.600.302.1.5 Cooperation with the ~~Director of Public Safety,~~ Fire ~~Division~~ Chief and/or program manager.

Any user of an *automated external defibrillator* shall fully cooperate with officials within the ~~Public Safety~~ Fire Department in any audit or other quality assurance review, including the retrieval of clinical data from the device itself.

9.600.302.1.6 List of authorized user.

A *public access defibrillation program* shall maintain a list of the authorized users, which shall also reflect the user's training and qualifications. This list is subject to audit by the officials within the ~~Public Safety~~ Fire Department.

SECTION 9.1100.304

APPEALS

9.1100.304.1 General.

In order to hear and decide appeals or orders, decisions, or determinations made by the Fire ~~division~~ Chief and/or *program manager* relative to the application and interpretation of this article; the Uniform Code Board of Appeals is hereby authorized to conduct said appeals.

9.1100.304.2 Application for appeal.

Persons directly affected by a decision of the Fire ~~division~~ Chief and/or *program manager* or a notice issued under this chapter shall have the right to appeal to the Uniform Code Board of Appeals, provided that a written application is filed on a form furnished by the Community Development Department for that purpose. The application for appeal shall be submitted to the Fire ~~division~~ Chief and/or *program manager* within ten (10) days of orders, decisions, or determinations therefore made by the building official.

9.1100.304.2 Authority on appeal.

See Title I, Chapter 110, Article 4 of the City of Gladstone's Code of Ordinances.

DIVISION 4 VIOLATION AND PENALTIES

SECTION 9.600.401 VIOLATIONS

9.600.401.1 Unlawful acts.

It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provisions of this chapter.

9.600.401.2 Violation; penalties.

Any person, who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the uniform code board of appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided for in Section 1.100.140 of the City of Gladstone, Clay County, Missouri Code of Ordinances. The imposition of one (1) penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each day that a violation continues after due notice has been served shall be deemed a separate offense.

CHAPTER 1000
PROPERTY MAINTENANCE AND
NUISANCE REGULATIONS

ARTICLE 1. PROPERTY MAINTENANCE CODE

Section 9.1000.010

Adoption of the 2018 International Property Maintenance Code

That a certain document, one (1) copy of which are on file in the office of the City Clerk of the City of Gladstone, Clay County, Missouri, in perpetuity, being marked and designated as *the International Property Maintenance Code*, 2018 edition including Appendix Chapters:

Appendix A, Boarding Standard.

as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Gladstone, Clay County, Missouri, for regulating and governing the conditions and maintenance of all property, buildings and *structures*; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that *structures* are safe, sanitary and fit for occupation and use; and the condemnation of buildings and *structures* unfit for human occupancy and use, and the demolition of such existing *structures* as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City of Gladstone, Clay County, Missouri are hereby referred to, adopted, and made a part hereof, as if fully set out in the legislation, with the amendments, additions, and deletions, if any, prescribed in Section 9.1000.020 of this chapter.

That if any section, subsection, sentence, clause or phrase of this legislation is, for any reason, held to be unconstitutional; such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

That nothing in this legislation or in the International Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

SECTION 9.1000.020
AMENDMENTS, ADDITIONS, AND DELETIONS
TO THE 2018 INTERNATIONAL PROPERTY MAINTENANCE CODE

9.1000.020.1 AMENDMENTS.

The following section(s) of the 2018 International Property Maintenance Code are omitted and not hereby incorporated as the following identically numbered sections are adopted in lieu thereof:

[A] 101.1 Title.

These regulations shall be known as the International Property Maintenance Code of the City of Gladstone, Clay County, Missouri, hereinafter referred to as “this code.”

[A] 103.5 Fees.

The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be in accordance with the schedule of fees and charges as adopted by the City of Gladstone, Clay County, Missouri.

111.1 General.

In order to hear and decide appeals or orders, decisions, or determinations made by the *building official* relative to the application and interpretation of this chapter; the Uniform Code Board of Appeals is hereby authorized to conduct said appeals.

111.2 Application for appeal.

Persons directly affected by a decision of the *building official* or a notice issued under this code shall have the right to appeal to the Uniform Code Board of Appeals, provided that a written application is filed on a form furnished by the Community Development Department for that purpose. The application for appeal shall be submitted to the *building official* within ten (10) days of orders, decisions, or determination therefore made by the *building official*.

111.3 Authority on appeals.

See Title I, Chapter 110, Article 4 of the City of Gladstone’s Code of Ordinances.

[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 the *person* is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than fifty (\$50.00) dollars or more than five-hundred (\$500.00) dollars.

SECTION 202 GENERAL DEFINITIONS

ACCESSORY LIVING QUARTERS. An accessory building used solely as the temporary *dwelling* of guests of the *occupant(s)* of the *premises*; such *dwelling* having no *kitchen* facilities and not rented or otherwise used as a separate *sleeping unit*.

ACCESSORY USE. A use conducted on the same lot as the primary use of the structure to which it is related; a use that is clearly incidental to, and customarily found in connection with, such primary use.

ADDITION. An extension or increase in floor area, number of stories, or height of a building or structure.

ALLEY. Any *public way* or thoroughfare more than 10 feet, but less than 16 feet in width, which has been dedicated to the public for public use.

ALTERATION. Any construction, retrofit, or renovation to an existing structure other than repair or addition that requires a *permit*. Also, a change in building, electrical, gas, mechanical, or plumbing system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a *permit*.

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. Acceptable to the *building official* or authority having jurisdiction.

ATTIC. The unfinished space between the ceiling assembly and roof assembly.

ATTIC, HABITABLE. A finished or unfinished *habitable space* within an *attic*

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a *dwelling* or *sleeping unit*.

BLIGHTED. Any *structure* or *premises*, which by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors are detrimental to safety, health and morals.

BOARD, THE. The Board of Zoning Adjustments (BZA) of the City of Gladstone, Clay County, Missouri.

BUILDING. Any *structure* utilized or intended for supporting or sheltering any *occupancy*.

BUILDING, MAIN. A building in which the principal use of the site is conducted.

BUILDING HEIGHT. The vertical distance *grade plane* to the average height of the highest roof surface.

BUILDING LINE. The line established by law, beyond which a building shall not extend, except as specifically provided by law.

BUILDING OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this code, or any duly authorized representative.

CANOPY. A permanent structure or architectural projection of rigid construction over which a covering is attached that provides weather protection, identity or decoration. A canopy is permitted to be structurally independent or supported by attachment to a building on one or more sides.

CITY. The City of Gladstone, Clay County, Missouri.

COMPOST. A mixture consisting usually of decayed organic matter and used for fertilization and conditioning land, especially such mixture produced by decomposition in a *compost pile*.

COMPOST BIN. A *structure* specifically built to store *compost*.

COMPOST PILE. A stack of alternating layers of organic matter arranged so as to encourage conversion of the constituents into *compost*.

CONDEMN. To adjudge unfit for *occupancy*.

CONDOMINIUM. A single-dwelling unit in a multiunit dwelling or structure, that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

CONGREGATE RESIDENCE. Any building or portion thereof containing facilities for living, sleeping and sanitation as required by this code, and may include facilities for eating and cooking for occupancy by other than a family. A *congregate residence* shall be permitted to be shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels or lodging houses.

COST OF SUCH DEMOLITION OR EMERGENCY. The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expanded for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a *code official*, the governing body or board of appeals.

COURT. A space, open and unobstructed to the sky, located at or above *grade* level on a *lot* and bounded on three or more sides by walls of a building.

DEBRIS. The remains of something broken down or destroyed; and/or discarded *garbage* or *rubbish*.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DRIVEWAY. A private access road, the use of which is limited to persons residing, employed, or otherwise using or visiting the *premises* in which it is located.

DRIVEWAY APPROACH. That portion of the *driveway* that is located in the *city right-of-way*.

DWELLING. Any building that contains one or two *dwelling units* used, intended, or designed to be built, used, rented, leased, *let* or hired out to be occupied, or that are occupied for living purposes.

DWELLING, MULTIPLE UNIT. A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual *dwelling units* may be owned as *condominiums*, or offered for rent.

DWELLING, SINGLE FAMILY. A detached *dwelling unit* with *kitchen* and sleeping facilities, designed for occupancy by one family.

DWELLING, TWO FAMILY. A building designed or arranged to be occupied by two families living independently, with the structure having only two *dwelling units*.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING UNIT OR SLEEPING UNIT, MULTI-STORY. See “Multistory Unit.”

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee *owner(s)* of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

EMERGENCY ESCAPE AND RESCUE OPENING. An operable exterior window, door or similar device that provides for a means of escape and access for rescue in the event of an emergency.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including brace, frames, lugs, snuggers, hangers saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

EXTERIOR WALL. A wall, bearing or nonbearing, that is used as an enclosing wall for the building, other than a *fire wall*, and that has a slope of 60 degrees or greater with the horizontal plane.

EXTERMINATION. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

FLIGHT. A continuous run of rectangular treads or *winders* or combination thereof from one landing to another.

FRONTAGE. The width of a lot or parcel abutting a public right-of-way measured at the front property line.

GARAGE, PRIVATE. A building or a portion of a building, in which *motor vehicles* used by the owner or tenants of the building or buildings on the premises are stored or kept, without provisions for repairing or servicing such vehicles for profit.

GARAGE, REPAIR. A building, structure, or portion thereof used for the servicing or repairing motor vehicles.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

GRADE. The finished ground level adjoining the building at all *exterior walls*.

GRADE PLANE. A referenced plane representing the average of finished ground level adjoining the building at *exterior walls*. Where the finished ground level slopes away from the *exterior walls*, the referenced plane shall be established by the lowest points within the area between the building and the *lot line* or, where the *lot line* is more than 6 feet from the building, between the building and a point 6 feet from the building.

GREASE COLLECTION CONTAINER. A container for temporarily storing fats, oils, and grease, and is usually made out of metal.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimize the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered *habitable spaces*.

HANDRAIL. A horizontal or sloping rail intended for grasping by the hand for guidance or support.

HISTORIC BUILDING. Any building or structure that is one or more of the following:

1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. Designated as historic under an applicable state or local law.
3. Certified as a contributing resource within a National Register or state or local designated historic district.

HOME OCCUPATION. The partial use of a *dwelling unit* for commercial or nonresidential uses by a resident thereof, which is subordinate and incidental to the use of the dwelling for residential purposes.

HOT TUB. See “Spa.”

HOUSEKEEPING UNIT. A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or *premises* of insects, rats, vermin or other pests.

JURISDICTION. The governmental unit that has adopted this code.

KITCHEN. An area used, or designated to be used, for the preparation of food.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, approved agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-*labeled* items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LANDSCAPING. The finishing and adornment of unpaved *yard* areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flowers. This treatment shall be permitted also to include the use of logs, rocks, fountains, water features and contouring of the earth.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or *occupancy* of a *dwelling unit*, *rooming unit*, building, premise or structure by a person who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement, or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

LIVING SPACE. Space within a *dwelling unit* utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

LODGING HOUSE. A one-family dwelling where one or more occupants are primarily permanent in nature, and rent is paid for guestrooms.

LOT. A portion or parcel of land considered as a unit.

LOT LINE. A line dividing one *lot* from another, or from a street or any public place.

MEDIA, SOCIAL. Forms of electronic, digital, computerized or networked information and communication technologies through which users create online communities to share information, ideas, personal messages and other content. These can take many different forms, including internet forums, blogs, wikis, podcasts, and picture-, music- and video-sharing. Examples of social media applications are Google Groups, Wikipedia, My Space, Facebook, Craigslist, YouTube, Second Life, Flickr and Twitter.

MEDIA, TRADITIONAL. Communications that existed before *social media* such as television, radio, newspapers, magazines, newsletters, tax press and other print publications.

MOTOR VEHICLE. Any vehicle, automobile, automobile truck, automobile wagon, motorcycle, machine, tractor, trailer or semi-trailer propelled or drawn by mechanical power and used upon public streets in the transportation of passengers or property, or any combination thereof, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

MOTOR VEHICLE, BUS. Any *motor vehicle* designed, constructed and/or used for the transportation of passengers, including taxicabs.

MOTOR VEHICLE, COMMERCIAL. Any *motor vehicle* used to transport goods, passengers, or property for the profit of an individual or business.

MOTOR VEHICLE, INOPERABLE. A *motor vehicle*, which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, a flat tire or incapable of being moved under its own power.

MOTOR VEHICLE, SCHOOL BUS. A passenger *motor vehicle* which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary of Transportation determines is likely to be significantly used for the purpose of transporting preprimary, primary, or secondary school students to such schools from home and from such schools to home.

MOTOR VEHICLE, TRUCK. Any self-propelled *commercial motor vehicle* except a *truck tractor motor vehicle*, designed and/or used for the transportation of property

MOTOR VEHICLE, TRUCK TRACTOR. A self-propelled *commercial motor vehicle* designed and/or used primarily for drawing other vehicles.

MOTOR VEHICLE, UNLICENSED. A motor vehicle that is not validly registered under the laws of the State of Missouri, other jurisdictions or does not display valid license plates.

MULTISTORY UNIT. A *dwelling unit* or *sleeping unit* with *habitable space* located on more than one *story*.

NEGLECT. The lack of proper maintenance for a building or *structure*.

OCCUPANCY. The purpose for which a *building* or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a *building*, or having possession of a space within a *building*.

OPEN SPACE. Land areas that are not occupied by buildings, structures, parking areas, streets, alleys or required *yards*. *Open spaces* shall be permitted to be devoted to *landscaping*, preservation of natural features, patios and recreational areas and facilities.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

OPERATOR. Any *person* who has charge, care or control of a *structure* or *premises* which is let or offered for *occupancy*.

OWNER. Any *person*, agent, *operator*, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PARK. A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

PARKING, OFF-STREET. Parking of a *motor vehicle* anywhere but on the street.

PARKING LOT. An open area, other than a street, used for the parking of *motor vehicles*.

PARKING SPACE, MOTOR VEHICLE. A space within a building or private or public parking lot, exclusive of driveways, ramps, columns, office and work areas, for the parking of a *motor vehicle*.

PAVED AREA. A hard surfaced area consisting of concrete, asphalt, or other *approved* materials.

PERMIT. An official document or certificate issued by the *building official* that authorizes performance of a specified activity.

PERSON. An individual, heirs, executors, administrators or assigns, and also includes firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

PERSONAL PROPERTY. Property other than real property consisting of things temporary or movable.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; or by other *approved pest elimination* methods.

[A] PREMISES. A *lot*, plot or parcel of land, *easement* or *public way*, including any *structures* thereon.

[A] PUBLIC WAY. Any street, alley or similar parcel of land that: is open to the outside air; leads to a street; has been deeded, dedicated, or otherwise permanently appropriated to the public for public use; and has clear width and height of not less than ten (10) feet.

RAMP. A walking surface that has a running slope steeper than 1-unit vertical in 20 unit's horizontal (5-percent slope).

RECYCLING BINS. A container for temporarily storing recyclable materials and is usually made out of metal.

RIGHTS-OF-WAY. The area on, below or above a public roadway, streets, alleys, bridges, bikeways, parkways and sidewalks in which the city has an ownership interest but not including; (a) the airways above a public rights-of-way with regards to cellular or other non-wire telecommunications or broadcast service; (b) easements obtained by utilities or private easements in platted subdivisions or tracts; or (c) poles, pipes, cables, conduits, wires, optical cables or other means of transmission, collection or exchange of communications, information, substances, data or electronic or electrical current or impulses utilized by a municipally owned or operated utility pursuant to Chapter 91, RSMo, or pursuant to a charter form of government.

RISER (STAIR). The vertical component of a step or *stair*.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except *garbage*; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metal, mineral matter, glass, crockery and dust and other similar materials.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* and not *sleeping unit*.

SOCIAL NETWORKING. See “Media, Social.”

SPA. A product intended for the immersion of persons in temperature-controlled water circulated in a closed system, and not intended to be drained and filled with each use. A spa usually includes a filter, and electric, solar, or gas heater, a pump or pumps, and a control, and can include other equipment, such as lights, blowers, and water-sanitizing equipment.

STAIR. A change in elevation, consisting of one or more *risers*.

STAIRWAY. One or more flights of stairs, either interior or exterior, with the necessary landings and platforms connecting them to form a continuous and uninterrupted passage from one level to another within or attached to a building, porch or deck.

STORY. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

STREET. Any thoroughfare or *public way* not less than 16 feet (4877 mm) in width which has been dedicated.

STREET, PRIVATE. A right-of-way or *easement* in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.

STREET, PUBLIC. Any street, road or way dedicated to public use.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act, which was prohibited, or failed to do an act, which the defendant was legally required to do.

STRUCTURE. That which is built or constructed.

SWIMMING POOL. Any structure that contains water over 24 inches (610 mm) in depth and which is used, or intended to be used for swimming or leisure activities. This includes in-ground, above-ground, and on-ground swimming pools.

SWIMMING POOL, PRIVATE. Any *swimming pool* used in connection with an occupancy in Use Group R-3 and which is available only to the family and guests of the householder.

SWIMMING POOL, PRIVATE INDOOR. Any *private swimming pool* that is totally contained within a private structure and surrounded on all four sides by walls of said structure.

SWIMMING POOL, PRIVATE OUTDOOR. Any *private swimming pool* that is not an indoor pool.

SWIMMING POOL, PUBLIC. Any *swimming pool* other than a *private swimming pool*.

TENANT. A *person*, corporation, partnership or group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

TOWNHOUSE. A single-family *dwelling unit* constructed in a group of three or more attached units in which each unit extends from foundation to roof and with a *yard* or *public way* on a least two sides.

TRASH. Anything worthless, useless, or discarded; *rubbish / garbage*.

TRASH BAG. A plastic bag put inside a *waste container* to hold the *waste, trash, garbage*, and *rubbish*; and keep the container clean.

TRAILER. A unit attached to a *motor vehicle* designed to carry property and/or passengers. A trailer cannot be motorized or self-operated. A trailer may include, but is not limited to the following; homemade, kit, farm wagon, boat, utility, flat bed, semi, livestock and camping.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

UNSHELTERED STORAGE. Any *personal property* not stored in or under a structure such as a shed, carport, garage or deck that is permanent in nature.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WASTE. Are unwanted or unusable materials; any substance which is discarded after primary use, or is worthless, defective, and of no use.

WASTE CONTAINER. A container for temporarily storing *waste, trash, rubbish*, and/or *garbage*, and is usually made out of metal or plastic. Some common terms are refuse container, dumpster, trash can, and garbage can.

WEEDS. All grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

WEEDS, NOXIOUS. A noxious weed is an invasive species of a plant that has been designated by the country, state or national agricultural authorities as one that is injurious to agricultural and/or horticultural crops, natural habitats and/or ecosystems, and/or humans or livestock.

WINDER. A tread with nonparallel edges.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space, other than a *court*, unobstructed from the ground to the sky, except where specifically provided by this code, on the lot on which a building is situated.

YARD WASTE. Are grass clippings, yard vegetation, sod without dirt, twigs (less than 2 inches in diameter), leaves, etc.

YARD WASTE BAG. Is a brown paper recyclable bag for yard waste.

302.4 Weeds.

All *premises* and *exterior property* shall be maintained free from *weeds* or plant growth in excess of seven (7) inches. On undeveloped property, *weeds* or plant growth shall be maintained a minimum of one hundred (100) feet from all adjacent lot lines. All *noxious weeds* shall be prohibited.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after the service of a notice of violation, they may be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the cost of such removal and administration fees shall be paid by the *owner* or agent responsible for the property. If not paid by *owner* or agent responsible for the property, the cost of such abatement and other associated costs shall be assessed on the *owner's* real estate tax bill.

Exception: Premises adjacent to a stream may allow weeds or plant growth to grow beyond the height of seven (7) inches within ten (10) feet of the edge of the stream.

302.7 Accessory structure.

All accessory structures, including but not limited to, *detached* garages, carports, gazebos, decks, platforms, sheds, lean-tos, retaining walls, fences and walls, shall be maintained structurally sound and in good repair.

302.8 Motor vehicles.

Except as provided for in other regulations, no motor vehicle that is inoperative, unlicensed

or has expired registration tags shall be parked, kept or stored on any *premises*, and no vehicle shall be at any time in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including bodywork, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purpose.

[F] 304.3 Premises identification.

Buildings shall have *approved* address numbers placed on the primary structure and in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

304.14 Insect screens.

Every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

308.2.1 Rubbish storage facilities.

The *owner, tenant* and/or *occupant* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner, tenant* and/or *occupant* of the *premises* shall be responsible for the removal of *rubbish*.

308.3.1 Garbage facilities.

The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each *dwelling unit*; an *approved* incinerator unit in the structure available to the *occupants* in each *dwelling unit*; or the *owner, tenant* and/or *occupant* shall supply *approved* leakproof, covered, outside garbage container; and the *owner, tenant* and/or *occupant* of the dwelling shall be responsible for the removal of *garbage*.

602.3 Heat supply.

Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the

occupants thereof shall supply heat to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.
2. In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

602.4 Occupiable work spaces.

Indoor occupiable work spaces shall be supplied with heat to maintain a minimum temperature of 65°F (18°C) during the period the space is occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

9.1000.020.2 ADDITIONS.

The following section(s) are hereby incorporated and adopted in the 2018 International Property Maintenance Code:

302.4.1 Weeds in public rights-of-way.

All *premises* and *exterior property* adjacent to the City of Gladstone, Clay County, Missouri or the State of Missouri's public rights-of-way along improved and/or unimproved streets shall comply with the requirements of Section 302.4, and adjacent property *owner* shall be responsible for seeding, sodding and plantings.

Exception: Any property along a public rights-of-way that contains a drainage ditch or incline, which cannot be mowed or maintained by normal residential mower or weed removal tool(s) as determined by the *building official*.

302.8.1 Off-street parking.

Off-street *parking areas* shall be used solely for the parking of licensed *motor vehicles* in operating condition.

302.8.1.1

Non-Commercial Motor vehicles. *Motor vehicles* shall be parked on an *approved driveway, parking lot, parking area, or paved area* that has a minimum thickness of 4 inches of either concrete, asphalt or other similar *approved* materials. Such *driveway, parking lot, parking area or paved area* shall be at least as long and wide and encompass the entire area beneath any *motor vehicle* that is parked on said *driveway, parking lot, parking area, or paved area*.

Exception: Existing gravel *driveways* classified as an *approved* existing non-conforming *driveway*.

302.8.2 Commercial motor vehicle.

No *person* shall park or allow to be parked a *commercial motor vehicle* upon any residential *lot or premises*, improved or unimproved, in the city.

Exceptions:

1. City-owned and –operated vehicles; services vehicles owned by utility companies while in the process of services or maintenance; construction vehicles while being used in conjunction with construction or maintenance authorized by the jurisdiction having authority.
2. For the purpose of making delivery or pickup provided such vehicles are not left continuously parked between the hours of 9:00pm and 7:00am local time.
3. Pickup trucks rated at 1-ton (907 kg) or more that are owned and operated for the personal use, non-business related, of the individual who owns said pickup truck.
4. A *commercial motor vehicle* rated at 1-ton or less.

302.8.2.1 Commercial motor vehicles; parking thereof.

Commercial motor vehicles shall be parked on an *approved driveway, parking lot, parking area, or paved area*; gravel or other non-*approved* parking surfaces, existing or otherwise are not permitted. *Commercial motor vehicles* that are designed to be towed or towable shall be hitched to an operating *commercial motor vehicle* and shall have denotation of the business it belongs to.

302.8.3 Motor vehicles for sale.

Except as provided for herein no one shall park or allow to be parked a *motor vehicle* on private or public property zoned residential, commercial or manufacturing within view of a public street for the purpose of selling or advertising for sale, said *motor vehicle*.

Exceptions:

1. In residential zoned properties, one (1) *motor vehicle* shall be allowed to be placed on an approved paved area for the purpose of offering said *motor vehicle* for sale. No residential property shall be allowed more than four (4) *motor vehicles* for sale in a calendar year.
2. In commercial and manufacturing zoned properties, if a *person* with an ownership interest in said *motor vehicle* is an employee of a business within said property and has written permission from the property *owner* to use the property for the purpose of selling, or has a valid occupational license from the City of Gladstone, Clay County, Missouri for the sale of *motor vehicles* and said occupational license designating the *premises* involved as the business location.

Whether or not permission has been given to park on the property is an affirmation defense, and the showing of written permission and proof of employment meet the burden of proof.

302.8.3.1 Prima facie evidence.

The fact that a *motor vehicle* is advertised for sale via any *traditional media* or *social media*, shall be prima facie evidence that the *motor vehicle* is parked for the purpose of being offered for sale.

302.8.4 Motor vehicle encroachment.

No *motor vehicle* shall block or partially block any portion of the public sidewalk, or access pathway for public sidewalks at *driveway approaches* within the City of Gladstone, Clay County, Missouri rights-of-ways.

302.10 Open storage.

All *exterior property* and *premises*, open bed pickup trucks and open trailers located on any *premises*, *private street* or *public street* shall be free of *unsheltered storage* of any kind.

Exception: Useable BBQ grills as long as there is not a collection thereof, lawn furniture maintained in useable condition, bicycles maintained in operational use as long as there is not a collection thereof, firewood neatly stacked in the rear yard, and the temporary storage of landscape and building materials to be used on the *premises* for a current project under construction so long as the materials are neatly stacked in the rear yard and are not stored leaning against the side of a structure.

308.2.3 Burning.

No *person* shall burn or allow to be burned any *rubbish* within city limits.

308.2.4 Streets.

No *person* shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any *rubbish* upon streets, sidewalks, alleys, storm sewers, parkways, or other public place or upon any occupied *premises* with city limits.

308.2.5 Stream.

No *person* shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any *rubbish* upon streams, lakes, bodies of water or ravines within city limits.

308.3.3 Burning.

No *person* shall burn or allow to be burned any *garbage* within city limits.

308.3.4 Streets.

No *person* shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any *garbage* upon streets, sidewalks, alleys, storm sewers, parkways, or other public place or upon any occupied premises with city limits.

308.3.5 Stream.

No *person* shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any *garbage* upon streams, lakes, bodies of water or ravines within city limits.

308.4 Disposal of contagious disease and inflammable or explosive rubbish and garbage.

Removal of wearing apparel, bedding or other *rubbish* or *garbage* from homes or other places where highly infectious or contagious diseases prevail shall be performed under the supervision and direction of the county health office. Such *rubbish* and *garbage* shall not be placed in containers used for regular collections or disposal.

Highly inflammable or explosive materials shall not be placed in containers for collection but shall be disposed of as directed by the ~~Director of Public Safety~~ Fire Chief at the expense of the *owner* or possessor thereof.

308.5 Storage of waste containers; residential. *Waste containers, trash bags and yard waste bags* used for the purpose of disposing of, *waste, trash, rubbish, garbage and yard waste* shall be stored no closer to the *public way* than the front *building line*; for corner lots all containers shall be stored no closer to the *public way* than the front *building line* and side *building line* adjacent to the street of any *premises*. In either case, *waste containers* or *trash bags* shall not be stored in front of the main building and/or attached garage; in addition, corner lots shall not have *waste containers* or *trash bags* stored on the side of the main building and/or attached garage adjacent to the *public way*.

Exception: On the day of scheduled pickup, during which *waste containers, trash bags and yard waste bags* may be temporarily placed near the *public way* for the purpose of pickup.

308.6 Storage and screening of waste containers; commercial.

All waste containers must be screened by a four (4) – sided enclosure, three sides of which will be composed of the same material and color of the main building or other *approved* material, with an *approved* gate for access being the fourth side. The gate access must screen the waste container and be of the same color as the main building. Access gates must be kept closed.

308.7 Grease collection container; commercial.

All *grease collection containers* must be screened by a four (4) – sided enclosure, three sides of which will be composed of the same material and color of the main building or other *approved* material, with an *approved* gate for access being the fourth side. The gate access must screen the *grease collection container* and be of the same color as the main building. Access gates must be kept closed.

308.8 Recycling bins, commercial.

All *recycling bins* must be screened by a four (4) – sided enclosure, three sides of which will be composed of the same material and color of the main building or other *approved* material, with an *approved* gate for access being the fourth side. The gate access must screen the *recycling bin(s)* and be of the same color as the main building. Access gates must be kept closed.

SECTION 310 COMPOSTING

310.1 General.

No *person* shall place or allow the accumulation of *rubbish* or *garbage* on their *premises* unless used specifically for composting as set forth in this section.

310.2 Composting permitted.

Composting shall be permitted when located on a one- and two-family residential *premises*, contained within an *approved compost bin* and shall comply with the provision of this section.

310.3 Construction of compost bin.

A *compost bin* may contain more than one contiguous compartment and may be constructed of a commercially available unit or a *structure* made of woven wire (such as hog wire, chicken wire or chainlink), wood slat fencing (such as snow fencing), cement blocks, bricks or similar material.

310.4 Compost bin required.

Only one (1) *compost bin* is permitted on any residential *premises* up to 1-acre (4046.82 m²). On residential *premises* more than 1-acre (4046.82 m²), no more than two (2) *compost bins* are permitted. *Compost bins* shall comply with the following provisions.

1. A *compost bin* shall be no larger than 600 cubic feet (16.99 m³) and shall not exceed 4 feet (1219 mm) in height.

2. A *compost bin* shall be so constructed as not to allow the material within to be blown from the *compost bin* by wind.

310.5 Location on premises.

Compost bins shall be located as follows:

1. A *compost bin* shall be located in the rear yard.
2. A *compost bin* shall not be located within 5 feet (1524 mm) of any property line and shall be at least 60 feet (18 288 mm) from the center of a roadway. A *compost bin* shall be no less than 5 feet (1524 mm) from any structure on the *premises*.
3. A *compost bin* shall be placed in a well-drained area with no standing water.

310.6 Maintenance.

Compost bins shall be maintained in accordance with the following provisions:

1. All *compost bins* shall be maintained in good repair and be structurally sound.
2. No odor emitted from a *compost bin* shall be detected more than 5 feet (1524 mm) in any direction from the *compost bin*.
 - 2.1 If odors are omitted and detectable greater than 5 feet (1524 mm) in any direction, then action shall be taken by the *owner, tenant* and/or *occupant* to eliminate such odor. Such action may include, but not limited to:
 - a. Adding lime to the *compost pile*,
 - b. Mixing or turning the *compost pile*, and/or
 - c. Regulating the moisture content of the *compost pile*.

310.7 Contents of compost pile.

Compost piles may contain any or all of the following:

1. Grass clippings,
2. Leaves,
3. Dead limbs,
4. Brush,
5. Logs,

6. Wood chips,
7. Foliage,
8. Vegetation from gardens,
9. Shrub cuttings,
10. Sod,
11. Soil,
12. Hay,
13. Straw,
14. Weeds, and/or
15. Sawdust.

9.1000.020.3 DELETIONS.

The following section(s) of the 2018 International Property Maintenance Code are omitted and not hereby incorporated:

[A] 111.2.1 Alternate members.

[A] 111.2.2 Chairman.

[A] 111.2.3 Disqualification of member.

[A] 111.2.4 Secretary.

[A] 111.2.5 Compensation of members.

[A] 111.4 Open hearing.

[A] 111.4.1 Procedure.

[A] 111.5 Postponed hearing.

[A] 111.6 Board decision.

[A] 111.6.1 Records and copies.

[A] 111.6.2 Administration.

[A] 111.7 Court review.

[A] 111.8 Stays of enforcement.

ARTICLE 2. PUBLIC NUISANCE ABATEMENT

DIVISION 1 SCOPE AND ADMINISTRATION

PART 1 – SCOPE AND APPLICATION

SECTION 9.1000.101 GENERAL PROVISIONS

9.1000.101.1 Title.

These regulations shall be known as Public Nuisance Abatement of the City of Gladstone, Clay County, Missouri, hereinafter referred to as ‘this Article’.

9.1000.101.2 Scope.

The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of owners, an owner's authorized agent, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

9.1000.101.3 Intent.

The purpose of this article, in accordance with Section 67.398 of the Revised Statutes of Missouri, is to provide for the abatement of a condition of any lot or land that has the presence of a nuisance.

9.1000.101.4 Severability.

If a section, subsection, sentence, clause, or phrase of this Article is for any reason, held to be unconstitutional or otherwise invalid; such decision shall not affect the validity of the remaining portions of this Article.

SECTION 9.1000.102 APPLICABILITY

9.1000.102.1 General.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this article and the referenced standards, the provisions of this article shall apply. Where, in a specific case, different sections of this article specify different requirements, the most restrictive shall govern.

9.1000.102.2 Other laws.

The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 – ADMINISTRATION AND ENFORCEMENT**SECTION 9.100.103
DUTIES AND POWERS OF THE BUILDING OFFICIAL****9.1000.103.1 General.**

The building official is hereby authorized and directed to enforce the provisions of this article. The building official shall have the authority to render interpretations of this article and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this article. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this article.

9.1000.103.2 Inspections.

The building official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

9.1000.103.3 Right of entry.

Where it is necessary to make an inspection to enforce the provisions of this article, or whenever the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this article, the building official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this article, provided that if such structure or premises is occupied the building official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner, owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

9.1000.103.4 Identification.

The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this article.

9.1000.103.5 Notices and orders.

The building official shall issue all necessary notices or orders to ensure compliance with this article.

9.1000.103.6 Department records.

The building official shall keep official records of all business and activities of the department specified in the provisions of this article. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 9.1000.104
PUBLIC NUISANCE; PURPOSE; DEFINITION

9.1000.104.1 Public nuisance.

Any person who shall create, commit, permit, or continue a nuisance of any kind, nature, or description in, upon, or about any private property in this jurisdiction, which does or could endanger life or limb, damage or depreciate the value of property, real or personal, or annoy or disturb the owners of property in or about the area where such nuisance exists, shall be deemed guilty of a misdemeanor.

9.1000.104.2 Purpose.

Sections 9.1000.104 through 9.1000.107 are meant to be regulations applicable to the abatement of nuisances defined in Section 9.1000.104.3. If this of Article conflicts with any other provisions of the City of Gladstone's Code of Ordinances regarding abatement of nuisances, this Article shall govern.

9.1000.104.3 Definition.

Any condition on any lot or land that has the presence of debris of any kind including, but not limited to, weed cuttings, cut and fallen trees and shrubs, overgrown vegetation and noxious weeds which are seven (7) inches or more in height, rubbish and trash, lumber not piled or stacked seven (7) inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks as more fully described in Section 9.1000.104.1, discarded household furniture or appliances, broken furniture, any flammable material which may endanger public safety or any material which is unhealthy or unsafe, is hereby declared to be a public nuisance.

SECTION 9.1000.105
NOTICE AND ABATEMENT

9.1000.105.1 Notice.

When a public nuisance as defined in Section 9.1000.104.3 exists, the Community Development Director and/or their authorized representative shall so declare and shall give written notice to the owner of the property and, if the property is not owner-occupied, to any occupant of the property by personal service or regular first-class mail. If notice cannot be given by either personal service or first-class mail, then such notice may be posted on or about the premises described in the notice. Such notice shall, at a minimum:

1. Declare that a public nuisance exists;
2. Specifically describe each condition declared to be a public nuisance;
3. Identify what action will remedy the public nuisance;
4. Order the removal or the abatement of such condition within a reasonable amount of time not less than ten (10) days, unless the public nuisance present an immediate, specifically identified risk to the public health or safety;
5. State that if the owner of the property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the Community Development Director shall cause the condition which constitutes the nuisance to be removed or abated and 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;
6. State that if the owner or occupant of the property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, such owner or occupant of the property may be cited into Municipal Court for violating this Article and shall, upon conviction in Municipal Court, be subjected to punishment by a fine pursuant to Section 1.100.140(e)(b) of the City of Gladstone's Code of Ordinances.
7. State, in the case of overgrown vegetation and noxious weeds, that if more than once during the same growing season a repeat violation of the same ordinance by the same person on the same property is reported, the City may, without further notification, have the weeds removed and the cost of the same shall be billed to the owner as provided in Section 9.1000.106.

SECTION 9.1000.106
ABATEMENT OF NUISANCE

9.1000.106.1 Administrative warrant.

If the owner of such property fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the Community Development Director and/or their authorized representative shall cause the condition which constitutes the nuisance to be removed. If the owner, occupant, or other person with lawful possession of the premises in question refuses to allow the Community Development Director and/or their authorized representative to enter onto such premises to abate the nuisance conditions, the City may request an administrative warrant, if such administrative warrant is required by law.

9.1000.106.2 Tax bill; costs.

If the Community Development Director and/or their authorized representative causes such

condition to be removed or abated, the cost of such removal (which may include fees for the City's cost in administering this Article) and the proof of notice to the owner of the property shall be certified 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 official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be considered delinquent, and 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 from the date the tax bill is delinquent until paid.

9.1000.106.3 Weeds.

In the case of overgrown vegetation and noxious weeds, if more than once during the same growing season, a repeat violation of the same ordinance by the same person on the same property is reported, the City may, without further notification, have the weeds removed and the cost of the same shall be billed to the owner as provided for in Section 9.1000.106.2.

**SECTION 9.1000.106
VIOLATIONS****9.1000.106.1 Unlawful acts.**

It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provisions of this article.

9.1000.106.2 Violation; penalties.

Any person who violates a provision of this article or fails to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the Uniform Code Board of Appeals, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided for in Section 1.100.140 of the City of Gladstone, Clay County, Missouri, Code of Ordinances. The imposition of one penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violations(s) or defects(s) within a reasonable time; and, when not otherwise specified, each day that a violation continues after due notice has been served shall be deemed a separate offense.

CHAPTER 2400
SPECIAL EVENT REGULATIONS

DIVISION 1
SCOPE AND ADMINISTRATION

PART 1 – SCOPE AND APPLICATION

SECTION 9.2400.101
GENERAL

9.2400.101.1 Title.

This chapter shall be known as the Special Event Regulations for the City of Gladstone, Clay County, Missouri, hereinafter referred to as “this chapter”.

9.2400.101.2 Scope.

The provisions of this chapter are to set forth procedures for controlling *special and qualifying event* activities in this jurisdiction.

9.2400.101.3 Intent.

The purpose of this chapter is to allow the short-term use of land for *special and qualifying events*, while protecting area residents and businesses from activities that may be disruptive, obnoxious, or otherwise incompatible; and to safeguard life, health, property, and public welfare.

SECTION. 9.2400.102.
APPLICABILITY

9.2400.102.1 General.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of this chapter specify different requirements, the most restrictive shall govern.

9.2400.102.2 Other laws.

The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.

9.2400.102.3 Application of references.

References to division or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such division, section or provision of this chapter.

9.2400.102.4 Partial invalidity.

In the event that any part or provision of this chapter is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

PART 2 – ADMINISTRATION AND ENFORCEMENT

SECTION 9.2400.103 DUTIES AND POWERS OF BUILDING OFFICIAL

9.2400.103.1 General.

The *building official* is hereby authorized and directed to enforce the provisions of this chapter. The *building official* shall have the authority to render interpretations of this chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall be in compliance with the intent and purpose of this chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this chapter.

9.2400.103.2 Applications and permits.

The *building official* shall receive applications, review construction documents and issue *permits* for the placement and use of portable storage containers and dumpsters, inspect the *premises* for which such *permits* have been issued and enforce compliance with the provisions of this chapter.

9.2400.103.3 Notices and orders.

The *building official* shall issue all necessary notices or order to ensure compliance with this chapter.

9.2400.103.4 Inspections.

The *building official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. Reports of such inspections shall be in writing and be certified by a reasonable officer of such *approved* agency or by the responsible individual. The *building official* is authorized to engage such expert opinion as deemed necessary to report on unusual technical issues that arise, subject to the approval of the appointing authority.

9.2400.103.5 Identification.

The *building official* shall carry proper identification when inspecting *premises* in the performance of duties under this chapter.

9.2400.103.6 Right of entry.

Where it is necessary to make an inspection to enforce the provisions of this chapter, or whenever the *building official* has reasonable cause to believe that there exists upon a *premises* or private property a condition in violation of this chapter, the *building official* is authorized to enter the *premises* at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such *premises* is occupied the *building official* shall present credentials to the *premises* or private property owner and request entry. If such *premises* or private property is unoccupied, the *building official* shall first make a reasonable effort to locate the owner; owner's authorized agent, or other person having charge or control of the *premises* or private property and request entry. If entry is refused, the *building official* shall have recourse to the remedies provided by law to secure entry.

9.2400.103.7 Department records.

The *building official* shall keep official records of all business and activities of the department specified in the provisions of this chapter. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 9.2400.104 PERMITS

9.2400.104.1 Required.

Any *owner, tenant, person*, authorized *agent*, or organization that intends to operate, host, or conduct a *special* or *qualifying event* shall first make application to the building official and obtain a *permit*.

9.2400.104.2 Exempt from permit.

Exemption from *permit* requirements of this chapter shall not be deemed to grant authorization from the use to be in violation of the provisions of this chapter or any other laws or ordinances of the jurisdiction. *Permits* shall not be required for the following:

1. Any *not-for-profit special* or *qualifying event* less than seventy-two (72) hours in duration. The *building* or *premises* may require a *permit* if in the judgement of the *building official* the activity is such that review is necessary to provide for protection and to safeguard life, health, property, and public welfare of area residents and businesses.
2. Duly licensed auctioneers, selling at auction. (Although exempt from this chapter, this type of event shall be governed by Title IX, Chapter 1400.)
3. Person's acting in accordance with their powers and duties as public officials.
4. Any business, which operates pursuant to a special use permit regulating the display and sale of outdoor goods.
5. Businesses which have been approved through special conditions or other approved conditions respective to their zoning. (Although exempt from this chapter, this type of event shall be governed by their approved conditions as to location on *premises*, times, dates, and any other conditional requirements.)

9.2400.104.3 Application for permit.

To obtain a *permit*, the applicant shall first file an application in writing on a form furnished by the *Department* for that purpose. Such application shall:

1. Describe the land on which the proposed event shall be located by legal description, street address, or similar description that will readily identify and definitely locate the proposed location.

2. Applicant's name, address, phone numbers and other pertinent information as deemed necessary.
3. Property owner's name, address, phone numbers, and other pertinent information as deemed necessary.
4. Date(s) and time(s) of the proposed event.
5. Be accompanied by construction documents and other information as required by Section 9.2400.104.
6. Be signed by the applicant, or the applicant's authorized *agent*.
7. Be signed by the *owner* or *owner's* representative.
8. Give such other data and information as required by the *building official*.

9.2400.104.4 Action on application.

The *building official* shall examine or cause to be examined applications for *permits* and amendments thereto within a reasonable time after filing. If the application does not conform to the requirements or pertinent laws, the *building official* shall reject such application. If the *building official* is satisfied that the application conforms to the requirements of this chapter, codes, laws and ordinances applicable thereto, the *building official* shall issue a *permit* therefore as soon as practicable.

9.2400.104.5 Validity of permit.

The issuance or granting of a *permit* shall not be construed to be a *permit* for, or approval of, any violation of any of the provisions of this chapter or of any other ordinances of the jurisdiction. *Permits* presuming to give authority to violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall not be valid. The issuance of a *permit* based on information given shall not prevent the *building official* from requiring the corrections of errors in the information given. The *building official* is also authorized to prevent operation of a *special event*, in violation of this chapter or any other ordinances of this jurisdiction.

9.2400.104.6 Suspension or revocation.

The *building official* is authorized to suspend or revoke a *permit* issued under the provisions of this chapter wherever the *permit* is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation, or any other provisions of this chapter.

SECTION 9.2400.105 EVENT DOCUMENTS

9.2400.105.1 General.

Submittal documents consisting of *event documents* and a map indicating the following:

1. Location of the event,
2. Existing and/or proposed structures,
3. Off street parking area(s),
4. Traffic circulation,
5. Outdoor display area(s),
6. Signage and location thereof,
7. Adjacent streets, and
8. Property lines.

9.2400.105.2 Information on documents.

A description of the proposed event indicating the following information:

1. Any merchandise, products, or displays;
2. Signs;
3. Attention-attracting devices; and
4. Any other information deemed necessary by the *Building Official* to ensure compliance with these regulations and any other regulations that may pertain to said event.

9.2400.105.3 Examination of documents.

The *building official* shall examine or cause to be examined the accompanying *event documents* and shall ascertain by such examination whether the said event indicated and described is in accordance with the requirements of this chapter and other pertinent laws or ordinances.

9.2400.105.4 Amended documents.

Said event shall be in accordance with the *approved permit* and submitted *event documents*, and any changes made after approval or during said event that are not in compliance with the *approved permit* and submitted *event documents* shall be resubmitted for approval as an amended set of *event documents*.

SECTION 9.2400.106 FEES

9.2400.106.1 Payment of fees.

A *permit* shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a *permit* be released until the additional fees, if any, have been paid.

9.2400.106.2 Permit fee.

Permit fees shall be in accordance with the adopted schedule of fees and charges; but not less than \$100.00 per permit and shall be paid at time permit is issued. *Special events* conducted prior to obtaining a *permit* shall be assess a penalty fee equal to the permit fee in addition to the require permit fee.

Exception: Type 2 and type 4 *permits*.

9.2400.101067.3 Related fees.

The payment of the fee for the *permit* shall not relieve the applicant or permit holder from the payment of other fees that are prescribed by law. Applicant shall reimburse any cost incurred by the City of Gladstone for personnel, etc. related to the operation of a *special event*.

SECTION 9.1400.107 APPEALS

9.1400.107.1 General.

In order to hear and decide appeals or orders, decisions, or determinations made by the *building official* relative to the application and interpretation of this chapter; the Board of Zoning and Adjustments (BZA) is hereby authorized to conduct said appeals.

9.1400.107.2 Application for appeal.

Persons directly affected by a decision of the *building official* or a notice issued under this chapter shall have the right to appeal to the Board of Zoning and Adjustments (BZA), provided that a written application is filed on a form furnished by the Community Development Department for that purpose. The application for appeal shall be submitted to the *building official* within ten (10) days of orders, decisions, or determinations therefore made by the *building official*.

9.1400.107.2 Authority on appeal.

See Title VII, Chapter 190 of the City of Gladstone's Code of Ordinances.

SECTION 9.2400.108 VIOLATIONS

9.2400.108.1 Unlawful act.

It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provisions of this chapter.

9.2400.108.2 Notice of violation.

The *building official* shall serve a notice of violation or order in accordance with Section 9.2400.109.

9.2400.108.3 Prosecution of violation.

Any *person* failing to comply with a notice of violation or order, served in accordance with Section 9.2400.109, shall be deemed guilty of a misdemeanor or civil infraction as determined by this jurisdiction, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *building official* shall institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful condition in violation of the provisions of this chapter or of the order or direction made pursuant thereto. Any action taken by this jurisdiction on such *premises* shall be charged against the real estate upon which the violation is located and shall be a lien upon such real estate.

9.2400.108.4 Violation; penalties.

Any person, firm, or corporation who violates a provision of this chapter or fails to comply with any order made thereunder, and from which no appeal has been taken, or who shall fail to comply with such order affirmed or modified by the Board of Zoning and Adjustments (BZA), or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in Section 1.100.140 of the City of Gladstone, Clay County, Missouri's Code of Ordinances. The imposition of one (1) penalty for any violation shall not excuse the violation, or permit it to continue; and all such person, firm, or corporation shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that a prohibited condition is maintained shall constitute a separate offense.

**SECTION 9.2400.109
Notices and Orders****9.2400.109.1 Notice to person responsible.**

Whenever the *building official* determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 9.2400.109.2 and 9.2400.109.3 to the *owner*, owner's authorized agent and/or *person(s)* responsible for the violation as specified in this chapter.

9.1400.109.2 Form.

Such notice prescribed in Section 9.2400.109.1 shall be in accordance with the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.

3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *premises* or private property into compliance with the provisions of this chapter.
5. Inform the property *owner* or owner's authorized agent of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 9.2400.108.3.

9.2400.109.3 Method of service.

Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. Posted in a conspicuous place in or about the *premises* affected by such notice.

9.2400.109.4 Unauthorized tampering.

Signs, tags, or seals posted or affixed by the *building official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *building official*.

9.2400.109.5 Penalties.

Penalties for noncompliance with orders and notices shall be as set forth in Section 9.2400.108.4.

9.24200.109.6 Transfer of ownership.

It shall be unlawful for the *owner* of any *premises* or private property thereof, who has received a compliance order upon whom a notice of violation or order has been served, to sell, transfer, mortgage, lease or otherwise dispose of such *premises* or private property thereof to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *building official* and shall furnish to the *building official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

DIVISION 2 DEFINITIONS

SECTION. 9.2400.201 GENERAL

9.2400.201.1 Scope.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this chapter, have the meaning shown in this section.

9.2400.201.2 Interchangeability.

Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

9.2300.201.3 Terms defined in other codes.

Where terms are not defined in this chapter such terms shall have the meanings ascribed in publications of the International Code Council.

9.2400.201.4 Terms not defined.

Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

9.2400.202 GENERAL DEFINITIONS

APPROVED. Acceptable to the *building official*.

ATTENTION-ATTRACTING DEVICES. Any item designed or used to promote, advertise, demonstrate, or call attention to any commercial, residential, office, retail or service business or activity.

BUILDING. Any structure utilized or intended for supporting or sheltering any occupancy.

BUILDING OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this chapter, or any duly authorized representative.

BUSINESS. All kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the *jurisdiction*.

CITY. The City of Gladstone, Clay County, Missouri.

COMMERCIAL. The sale, purchase or exchange of goods, products, or property of any kind for profit.

DEBRIS. The remains of something broken down or destroyed: and/or discarded *garbage* or *rubbish*.

EASEMENT. That portion of land property reserved for present or future use by a person or agency other than the legal fee *owner(s)* of the *property*. The *easement* shall be permitted to be for use under, on or above a said *lot* or *lots*.

ENCLOSED AREA. Any area, which is inaccessible to the public view.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of the *owners* or *operators* of such *premises*.

EVENT DOCUMENTS. Written, graphic and political documents prepared or assembled for describing the design, location, and physical characteristics of the elements of a project necessary for obtaining a *permit*.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GOODS. Any wares, merchandise or other property capable of being the object of a *Special Event* or sale regulated hereunder.

JURISDICTION. The governmental unit that has adopted this chapter.

LITTER. *Rubbish*, *garbage* and *debris* that have been thrown away and that are lying on the ground.

LOT. A portion or parcel of land considered as a unit.

LOT LINE. A line dividing one *lot* from another, or from a street or any public place.

NOT-FOR-PROFIT. Any person or organization that operates without private profit, for a public, charitable, educational, literary, fraternal, or religious purpose.

OPERATOR. Any person who has charge, care or control of a structure or *premises*, which is let or offered for occupancy.

OWNER. Any *person*, *agent*, *operator*, firm or corporation having legal or equitable interest in the *property*; or recorded in the official records of the state, county or municipality as holding title to the *property*; or otherwise having control of the *property*,

including the guardian of the estate of any such *person*, and the executor or administrator of the estate of such *person* if ordered to take possession of real property by a court.

PARKING LOT. An open area, other than a street, used for the parking of motor vehicles.

PAVED AREA. A hard surface area consisting of concrete, asphalt or other *approved* materials.

PERMIT. An official document or certificate issued by the *building official* that authorizes performance of a special activity.

PERSON. An individual, heirs, executors, administrators or assigns, and also includes firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

PREMISES. A *lot*, plot or parcel of land, *easement* or *public way*, including any *structures* thereon.

PUBLIC WAY. Any street, alley or similar parcel of land that: is open to the outside air; leads to a street; has been deeded, dedicated, or otherwise permanently appropriated to the public for public use; and has clear width and height of not less than ten (10) feet.

QUALIFYING EVENT. A celebration, observance, or commemoration of a happening that is held within an enclosed *building*, but necessitating outdoor promotional materials. Such as, but not limited to:

1. *Business* anniversary,
2. Special sales,
3. Grand openings,
4. Holidays,
5. Special awards, and
6. Special offers.

RUBBISH. Combustible and noncombustible waste materials, except *garbage*; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass, crockery and dust and other similar materials.

SPECIAL EVENT. An outside or outdoor thematic entertainment, amusement, athletic event or merchandise sale that may or may not be advertised or promoted inside or outside the *jurisdiction*, on private property or in the exclusionary use of public property, and it is reasonably foreseeable to involve a large assemblage of vehicles, and/or persons, impose traffic congestion, impact required parking, involve sanitation and/or security concerns, the erection of structures or operation of rides, games or machines that may affect the City's residents' or invitees' health, safety, or welfare, or may require excessive ~~public-safety~~ police department cost in responding to and/or managing the event to preserve the public peace. A *special event* has a specific start and stop date, and has no intervening dates of event inactivity, except for City sponsored events. A series of similar events is not considered a single event, unless conducted on consecutive days. The outdoor display or sale of merchandise or placement of vending on private property in connection with the sale of merchandise is considered a *special event*, unless approved through special conditions or other approved conditions respective to the zoning. A *special event* can include, but is not limited to:

1. Any organized formation, parade, procession or assembly consisting of persons, animals, vehicles or any combination thereof, which is to assemble or travel in unison on any street which does not comply with normal or usual traffic regulations or controls;
2. Any other organized activity conducted by a person or group for a common or collective use, purpose or benefit which involves the use of, or has impact on, other public property or facilities and the provision of the City's ~~public-safety~~ police department services in response thereto;
3. The display and/or sale of goods and merchandise, food, clothing, supplies, equipment, concessions, souvenirs, balloons, candy, jewelry and any other similar items outside of the primary business structure; or
4. Structures, including stages, booths, canopies, awnings, risers, bleachers, fences, partitions, stands or similar construction.

Additional examples of *special events* include but not limited to:

1. Filming;
2. Pyrotechnic displays or any kind;
3. Outdoor concerts;
4. Parades;
5. Carnivals or circuses, including any exhibition involving amusement attractions or rides, spectacles, animals, side shows, games and the like;

6. Fairs;
7. Festivals;
8. Block parties;
9. Automobile or motorcycle rallies;
10. Community events; and/or
11. Sports competition such as:
 - 11a. Marathons and running/walking events, or
 - 11b. Bicycle races or tours.
12. *Qualifying events.*

STRUCTURE. That which is built or constructed.

TENANT. A *person*, corporation, partnership or group, whether or not the legal *owner* of record, occupying a *building* or portion thereof as a unit.

YARD. An open space on the same *lot* with a *structure*.

DIVISION 3 SPECIAL EVENTS

SECTION 9.2400.301 TYPES OF PERMITS

9.2400.301.1 General.

Permits shall be classified as one of the following five (5) types:

9.2400.301.1.1 Type 1. Outdoor Commercial Events.

Commercial activities not conducted in an enclosed *building* or regular place of business, but are conducted on the premises of said business. Such commercial activities must be associated with the ongoing primary purpose of the business.

9.2400.301.1.2 Type 2. Outdoor Fund-Raising Activities by Not-For-Profits:

Outdoor fund-raising or non-commercial events by *not-for-profit* organizations.

9.2400.301.1.3 Type 3. Outdoor Community/Public Events:

Outdoor events such as but not limited to; filming, concerts, running/walking/biking events, races or tours.

9.2400.301.1.4 Type 4. City sponsored events:

Outdoor events/activities which benefit the community and is open for participation to the general community at-large, and is conducted in whole or part on public property or public right-of-way, and the City, solely or in partnership with another entity, produces, manages and/or coordinates the event, or has agreed to provide in-kind services and/or other financing in support of the event/activity, or has agreed to lend its name in support of the event/activity, after determining that the event/activity either:

1. Provides a local commemoration of a national holiday;
2. Provides cultural or recreational experiences to City and area residents that are not otherwise routinely available in the community; or
3. Significantly enhances tourism or other forms of economic development to the City.

This event requires approval by City Council: applications must be submitted a minimum of forty-five (45) days prior to the event.

9.2400.301.1.5 Type 5. Qualifying Events:

Commercial activities conducted in an enclosed *building* or regular place of *business*, but necessitate outside notification of said event.

SECTION 9.2400.302 STANDARDS AND STIPULATIONS

9.2400.302.1 General.

Special events shall comply with the following standards:

9.2400.302.1.1 Land use compatibility.

The event must be compatible with the purpose and intent of this chapter and with surrounding land uses. The event shall not impair the normal, safe and effective operation of a permanent use on the same site. The event shall not endanger or be materially detrimental to the public health, safety or welfare or injurious to property or improvements in the immediate vicinity of the event, given the nature of the activity, its location on the site and its relationship to parking and access points.

9.2400.302.1.2 Compliance with other regulations.

A building and/or fire inspection may be required before any temporary *structure* used in conjunction with the event is occupied or modified. All *structures* and the site, as a whole, shall be required to meet all applicable building code, zoning code, fire code and sign code standards and any temporary *structure* shall be promptly removed upon the cessation of the event. Within forty-eight (48) hours of cessation of the event or use, the site shall be returned to its previous condition (including the removal of all *rubbish, garbage, debris, signage, attention-attracting devices* or other evidence of the event or use). No outdoor display or *structure* shall occur within any required front, side, or rear yard setback.

9.2400.302.1.3 Hours of operation.

The hours of operation of an event shall be consistent with the surrounding land uses.

9.2400.302.1.4 Number and timing of outdoor special event permits.

All event permits are valid for thirty (30) days from date of issuance. No *business, not-for-profit*, or any other organization, etc. can have more than three event permits in a calendar year. Event *permits* can run consecutively.

Exception: Type 4 special event permit.

9.2400.302.1.5 Traffic circulation.

The event shall not cause undue traffic congestion or accident potential given attendance and the design of adjacent streets, intersections, parking and traffic controls.

9.2400.302.1.6 Off-street parking.

Off-street parking shall be provided to meet the needs of the requested event, and the event shall not create a parking shortage for any of the other existing uses on the site. All parking surfaces used by the business and event shall be of approved material.

9.2400.302.1.7 Public conveniences and litter control.

Adequate on-site restroom facilities and onsite solid waste and recycling containers shall be required. The applicant shall calculate the demand for such facilities and how the need will be addressed.

9.2400.302.1.8 Appearances and nuisances.

The event shall be compatible in intensity, appearance, usefulness, enjoyment and value with surrounding land uses. The event shall not generate excessive noise, dust, smoke, glare, spillover lighting or other forms of environmental or visual pollution.

9.2400.302.1.9 Signs and attention-attracting devices.

The city shall review all signage in connection with the event. The number and types of signs and *attention-attracting devices* permitted shall be evaluated on the following criteria:

1. Type,
2. Size and duration of the proposed event or use,
3. Safety considerations,
 - 3.1. Site-distance setback,
 - 3.2. Sidewalks in area,
4. Lighting considerations,
 - 4.1. Disturbance of nearby residents,
 - 4.2. Disturbance of nearby businesses, and
 - 4.3. Adverse effects to traffic on adjacent streets.
5. Aesthetic concerns.
 - 5.1. Appearance,
 - 5.2. Illumination,
 - 5.3. Number and size of signs, and

5.4. Number and size of *attention-attracting devices*.

9.2400.302.1.10 Area of parking lot dedicated to.

No more than ten percent (10%) of the parking stalls required for the business requesting the event permit shall be permitted for the display and demonstration of the event. No drives or maneuvering areas may be utilized within the event area unless such drive or maneuvering areas are directly adjacent to the approved display or demonstration area, not required for emergency access, and not deemed necessary by the *Building Official* to provide proper circulation through the lot.

9.2400.302.1.11 Outdoor events.

All outdoor events shall be located on an approved surface. A permanent *structure* occupied by an existing primary business possessing a valid business license within the *City* is required to operate any event on *premises* within the *City*.

9.2400.302.1.12 Other conditions.

The *Building Official* may establish additional conditions deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including but not limited to the following:

1. Time and frequency of operation,
2. Limitations on signs and *attention-attracting devices*,
3. Temporary arrangements for parking and traffic circulation,
4. Requirements for screening/buffering, and
5. Guarantees for site restoration and cleanup following the event.

9.2400.302.1.12.1 Special Conditions.

Special conditions may include, but not be limited to:

1. Modifications or restrictions to the hours of operation, duration of the event, size of the activity or other operational characteristics.
2. The posting of a performance bond to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to required standards and stipulations.
3. If the applicant requests the *Building Official* to provide extraordinary services or equipment or if the *Building Official* otherwise determines that extraordinary services including, but not limited to:

3.1. Traffic control,

3.2.Security personnel, or

3.3.Equipment

is required to protect the public health or safety the applicant shall be required to reimburse the *City* for the cost of any such services if the applicant does not provide such services. The *Building Official* may require the applicant to submit a security deposit prior to the event to ensure that the applicant complies with the provision.

4. Events held on public property and all events assisted by the *City* must have a certificate of liability and personal injury insurance identifying the *City* as additional insured, at such levels of insurance designated by the *City*.

SECTION 9.2400.303.

TEMPORARY SUSPENDING CERTAIN ORDINANCE REGULATIONS.

9.2400.303.1 Temporary suspending.

The City Council shall have the power to temporarily suspend the applicability of certain City Ordinance Regulations for type 4 City Sponsored Events by approval of the permit application, including but not limited to:

1. Section 2.120.050 Noise prohibited.
2. Section 2.130.010(2) Park rules and regulations (hours).
3. Section 2.130.010(13) Park rules and regulations (alcoholic beverages).
4. Section 2.135.040 Prohibition of smoking on or within all public park grounds.
5. Section 2.140.040 Public fireworks display prohibited, exceptions.
6. Section 5.110.1800 Drinking in public.
7. Section 5.160.230 (a) Street use permit (street use permit allowed).
8. Section 9.1600.110 Temporary signs.
9. Section 9.3000.301.2 Operating locations, hours.

CHAPTER 2600
ABANDONED-VACANT PROPERTY REGISTRATION REGULATIONS

DIVISION 1
SCOPE AND ADMINISTRATION

PART 1 – SCOPE AND APPLICATION

SECTION 9.2600.101
GENERAL

9.2600.101.1 Title.

These regulations shall be known as the Abandoned-Vacant Property Registration Regulations of the City of Gladstone, Clay County, Missouri, hereinafter referred to as “this chapter.”

9.2600.101.2 Scope.

The provisions of this chapter shall apply to existing properties to establish registration of said properties that are *abandoned* or *vacant* as a mechanism to communicate with the *owners* or owner’s agent for purposes, including building codes enforcement, local ordinances and state laws.

9.2600.101.3 Intent.

This chapter shall be construed to secure its express intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued maintenance of *abandoned* and/or *vacant structures* and *premises*.

SECTION 9.2600.102
APPLICABILITY

9.2600.102.1 General.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in a specific case, different sections of this chapter specify different requirements, the most restrictive shall govern.

9.2600.102.2 Other laws.

The provisions of this chapter shall not be deemed to nullify any provisions of local, state, or federal law.

9.2600.102.3 Application of references.

References to division or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such division, section or provision of this chapter.

9.2600.102.4 Partial invalidity.

In the event that any part or provisions of this chapter is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

PART 2 – ADMINISTRATION AND ENFORCEMENT

SECTION 9.2600.103 DUTIES AND POWERS OF BUILDING OFFICIAL

9.2600.103.1 General.

The *building official* is hereby authorized and directed to enforce the provisions of this chapter. The *building official* shall have the authority to render interpretations of this chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall be in compliance with the intent and purpose of this chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this chapter.

9.2600.103.2 Applications for registration.

The *building official* shall receive applications, review documents for registration of abandoned-vacant properties, inspect the *premises* for which registration has been applied for and enforce compliance with the provisions of this chapter.

9.2600.103.3 Notices and orders.

The *building official* shall issue all necessary notices or order to ensure compliance with this chapter.

9.2600.103.4 Inspections.

The *building official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. Reports of such inspections shall be in writing and be certified by a reasonable officer of such *approved* agency or by the responsible individual. The *building official* is authorized to engage such expert opinion as deemed necessary to report on unusual technical issues that arise, subject to the approval of the appointing authority.

9.2600.103.5 Identification.

The *building official* shall carry proper identification when inspecting *premises* in the performance of duties under this chapter.

9.2600.103.6 Right of entry.

Where it is necessary to make an inspection to enforce the provisions of this chapter, or whenever the *building official* has reasonable cause to believe that there exists upon a *premises* or private property a condition in violation of this chapter, the *building official* is

authorized to enter the *premises* at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such *premises* are occupied the *building official* shall present credentials to the *premises* or private property *owner* and request entry. If such *premises* or private property is unoccupied, the *building official* shall first make a reasonable effort to locate the *owner*; owner's authorized agent, or other person having charge or control of the *premises* or private property and request entry. If entry is refused, the *building official* shall have recourse to the remedies provided by law to secure entry.

9.2600.103.7 Department records.

The *building official* shall keep official records of all business and activities of the department specified in the provisions of this chapter. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 9.2600.104

APPEALS

9.2600.104.1 General.

In order to hear and decide appeals or orders, decisions, or determinations made by the *building official* relative to the application and interpretation of this chapter; the Board of Zoning and Adjustments (BZA) is hereby authorized to conduct said appeals.

9.2600.104.2 Application for appeal.

Persons directly affected by a decision of the *building official* or a notice issued under this chapter shall have the right to appeal to the Board of Zoning and Adjustments (BZA), provided that a written application is filed on a form furnished by the Community Development Department for that purpose. The application for appeal shall be submitted to the *building official* within ten (10) days of orders, decisions, or determinations therefore made by the *building official*.

9.2600.104.2 Authority on appeal.

See Title VII, Chapter 190 of the City of Gladstone's Code of Ordinances.

SECTION 9.2600.105

VIOLATIONS

9.2600.105.1 Unlawful act.

It shall be unlawful for any person, firm, or corporation to be in conflict with or in violation of any of the provisions of this chapter.

9.2600.105.2 Notice of violation.

The *building official* shall serve a notice of violation or order in accordance with Section 9.2600.106.

9.2600.105.3 Prosecution of violation.

Any *person* failing to comply with a notice of violation or order, served in accordance with Section 9.2600.106, shall be deemed guilty of a misdemeanor or civil infraction as determined by this jurisdiction, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *building official* shall institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful condition in violation of the provisions of this chapter or of the order or direction made pursuant thereto. Any action taken by this jurisdiction on such *premises* shall be charged against the real estate upon which the violation is located and shall be a lien upon such real estate.

9.2600.105.4 Violation; penalties.

Any person, firm, or corporation who violates a provision of this chapter or fails to comply with any order made thereunder, and from which no appeal has been taken, or who shall fail to comply with such order affirmed or modified by the Board of Zoning and Adjustments (BZA), or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in Section 1.100.140 of the City of Gladstone, Clay County, Missouri's Code of Ordinances. The imposition of one (1) penalty for any violation shall not excuse the violation, or permit it to continue; and all such person, firm, or corporation shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that a prohibited condition is maintained shall constitute a separate offense.

SECTION 9.2600.106 Notices and Orders

9.2600.106.1 Notice to person responsible.

Whenever the *building official* determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 9.2600.106.2 and 9.2600.106.3 to the *owner*, owner's authorized agent and/or *person(s)* responsible for the violation as specified in this chapter.

9.2600.106.2 Form.

Such notice prescribed in Section 9.2600.106.1 shall be in accordance with the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.

4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *premises* or private property into compliance with the provisions of this chapter.
5. Inform the property *owner* or owner's authorized agent of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 9.2600.105.3.

9.2600.106.3 Method of service.

Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. Posted in a conspicuous place in or about the *premises* affected by such notice.

9.2600.106.4 Unauthorized tampering.

Signs, tags, or seals posted or affixed by the *building official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *building official*.

9.2600.106.5 Penalties.

Penalties for noncompliance with orders and notices shall be as set forth in Section 9.2600.105.4.

9.2600.106.6 Transfer of ownership.

It shall be unlawful for the *owner* of any *premises* or private property thereof, who has received a compliance order upon whom a notice of violation or order has been served, to sell, transfer, *mortgage*, lease or otherwise dispose of such *premises* or private property thereof to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* or the owner's authorized agent shall first furnish the grantee, transferee, *mortgagee* or lessee a true copy of any compliance order or notice of violation issued by the *building official* and shall furnish to the *building official* a signed and notarized statement from the grantee, transferee, *mortgagee* or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

DIVISION 2 DEFINITIONS

SECTION 9.2600.201 GENERAL

9.2600.201.1 Scope.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings shown in this section.

9.2600.201.2 Interchangeability.

Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

9.2600.201.3 Terms defined in other codes.

Where terms are not defined in this chapter such terms shall have the meanings ascribed in publications of the International Code Council.

9.2600.201.4

Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

SECTION 9.2600.202 GENERAL DEFINITIONS

ABANDONED. A property that is *vacant* and is under a current Notice of Default and/or Notice of Trustee's Sale, pending Tax Assessor's Lien Sale, or a property that has been the subject of a foreclosure sale where the title was retained by or transferred to the *beneficiary* of the deed of trust involved with the foreclosure, or a property transferred under a deed in lieu of foreclosure/sale.

ACCESSIBLE PROPERTY. A property that is accessible through a compromised, breached or broken gate, fence, or other entry point.

APPROVED. Acceptable to the *building official*.

BORROWER. A *person* or company that has received money from another party with the agreement that the money will be repaid.

BENEFICIARY. A *person* who derives advantage from something, especially a trust, will or life insurance policy.

BUILDING. Any *structure* utilized or intended for supporting or sheltering any occupancy.

BUILDING OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this chapter.

CO-BORROWER. Any additional *borrower* whose name appears on loan documents and whose income and credit history are used to qualify for the loan.

COMMERCIAL PROPERTY. Real estate property that is used for business activities. *Commercial property* usually refers to *buildings* that house businesses, but it can refer to land that is intended to generate profit, as well as larger residential rental *properties*.

DEED OF TRUST. A legal instrument which is used to create a security interest in *real property* wherein legal title in *real property* is transferred to a *trustee*, which holds it as security for a loan between a borrower and lender.

DEED IN LIEU OF FORECLOSURE OR SALE. An instrument in which a mortgagor (i.e. the borrower) conveys all interest in a *real property* to the *mortgagee* (i.e. the lender) to satisfy a loan that is in default and avoid *foreclosure* proceedings.

DEFAULT. Failure to fulfill an obligation, especially to repay a loan or appear in a court of law.

DWELLING. Any *building*, that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

EVIDENCE OF VACANCY. Any condition that on it's own, or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include but are not limited to, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds or shutters, the absence of furnishings or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents or government employees that the property is vacant.

FORECLOSURE. The legal process by which a lender takes control of a *property*, evicts the homeowner and sells the home after the homeowner is unable to make full principal and interest payments on his or her *mortgage*, as stipulated in the *mortgage* contract.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

JURISDICTION. The governmental unit that has adopted this chapter.

LOCAL. Within forty- (40) road/driving miles distance of the subject property.

MORTGAGE. A debt instrument, secured by the collateral of specified real estate property, that the *borrower* is obliged to pay back with a predetermined set of payments.

MORTGAGEE. An entity that lends money to a borrower for the purpose of purchasing real estate.

MORTGAGOR. An individual or company who borrows money from a lender to purchase a piece of *real property*.

NOTICE OF DEFAULT. A public notice filed with a court stating that a *mortgage borrower* is in default of a loan.

OCCUPANCY. The purpose of which a *building* or portion thereof is utilized or occupied.

OUT OF AREA. Excess of forty- (40) road/driving miles distance of the subject property.

OWNER. Any *person*, operator, firm, or corporation, having a legal or equitable interest in the *property*; or recorded in the official records of the state, county, or municipality as holding title to the *property*; or otherwise having control of the *property*, including the guardian of the estate of any such *person*, and the executor or administrator of the estate of such *person* if ordered to take possession of *real property* by a court.

OWNER OF RECORD. A *person* or organization that is listed in public records as the *owner* of a *property*.

PERSON. An individual, heirs, executors, administrators or assigns, and also includes firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

PREMISES. A lot, plot or parcel of land, easement or public way, including any *structures* thereon.

PROPERTY. Anything that a *person* or business has legal title over. *Property* can be either tangible or intangible, and having legal title to it grants the *owner* certain enforceable rights. Typical examples of tangible *property* include real estate, also known as *real property*, vehicles, furniture, and equipment.

PROPERTY MANAGEMENT. A *person* or firm overseeing of residential, commercial and/or industrial real estate, including apartments, detached houses, condominium units, and shopping centers.

REAL PROPERTY. Land and any property attached directly to it, including any subset of land that has been improved through legal human actions. Examples of *real property* can include *buildings*, ponds, canals, roads, and machinery, among other things.

REGISTERED REPRESENTATIVE. A *person* or firm overseeing of residential, commercial and/or industrial real estate, including apartments, detached houses, condominium units, and shopping centers.

RESIDENTIAL PROPERTY. *Property* zoned for living or dwelling, as opposed to *commercial property* which is zoned for business and profit generation. Residential real estate can be single-family homes, condominiums units, apartments, townhouses, duplexes, and so on.

RUBBISH. Combustible and noncombustible waste materials, except *garbage*; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass, crockery and dust and other similar materials.

SECURING. Such measures as may be directed by the *Building Official* or his or her designee that assist in rendering the *property* inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair or boarding of doors, windows, or other openings.

STAGNANT WATER. Water not circulating or flowing; standing. Mosquitoes breed in *stagnant water*.

STRUCTURE. That which is built or constructed.

TRUSTEE. A *person* or firm, that holds and administers property or assets for the benefit of a third party.

TRUSTOR. An individual or organization that gifts funds or assets to others. *Trustors* do this by transferring his or her fiduciary duty to a third-party *trustee*, who maintains the assets for the benefit of the *beneficiaries*.

VACANT. A *building*, *structure* or *premises* that is not legally occupied.

DIVISION 3 REGISTRATION

SECTION 9.2600.301 GENERAL

9.2600.301.1 Abandoned properties.

Any *beneficiary/trustee* who holds a *deed of trust* on a *property* located within this jurisdiction shall cause an inspection to be performed on the property that is the security for the *deed of trust* within fourteen (14) days of issuing a *notice of default* to the *trustor*; or any *property* that has been subject of a foreclosure sale where title to the *property* was transferred to the *beneficiary* of a *deed of trust* involved in the *foreclosure* and any *properties* transferred under a deed in lieu of *foreclosure* or sale.

1. If the *property* is found to be *abandoned* or shows *evidence of vacancy*, it shall be deemed *abandoned* and the *beneficiary/trustee* shall, within ten 10 days of the inspection, register the *property* with the *building official* on forms provided by the jurisdiction.
2. The registration shall contain the name of the *beneficiary/trustee*, the direct street/office mailing address of the *beneficiary/trustee* and P.O. Box if applicable, a direct contact name and phone number of the *beneficiary/trustee*; the name, address, and telephone number of the local *property management* or *registered representative* responsible for the security, maintenance, and marketing of the *property*. Any changes of the information in the registration required hereunder shall be reported within ten (10) days of the change.
3. *Abandoned properties* shall remain subject to annual registration, maintenance, and security of this chapter as long as they remain *abandoned*.
4. Once the *property* is no longer *abandoned* or is sold, the *owner* must provide proof of sale or written notice and proof of *occupancy* to the *building official*.

9.2600.301.2 Vacant properties.

Any *residential property* located within this jurisdiction and not governed by Section 9.2600.301.1 and that has been *vacant* for more than forty-five (45) days shall register said *vacant property* with the *Building Official* or his or her designee on forms provided by the jurisdiction.

1. The registration shall contain the name of the *owner* (corporation or individual), the direct street/office mailing address of the property owner and P.O. Box if

applicable, a direct contact name and phone number of the property owner, the name, address, and telephone number of the local property management company, licensed with the City of Gladstone, or registered representative responsible for the security, maintenance, and marketing of the property. Any changes of the information in the registration required hereunder shall be reported within ten (10) days of the change.

2. *Vacant properties* shall remain subject to the annual registration, maintenance, and security of this Chapter as long as they remain *vacant*.
3. Once the *property* is no longer *vacant* or is sold, the *owner* must provide proof of sale or written notice and proof of *occupancy* to the *Building Official* or his or her designee.

**DIVISION 4
MAINTENANCE**

**SECTION 9.2600.401
GENERAL**

Sec. 9.2600.401.1 Property maintenance.

Abandoned/vacant properties subject to this Chapter shall be kept in compliance with Title IX, Chapter 1000, Property Maintenance Regulations.

DIVISION 5 SECURITY

SECTION 9.2600.501 GENERAL

Sec. 9.2600.501.1 Security measures.

Abandoned/vacant properties subject to this Chapter shall be maintained in a secure manner so as not to be accessible to unauthorized *persons*. This includes without limitation, the closure and locking of windows, doors (walk-through, sliding, and garage), gates, pet doors, and any other opening of such size that may allow a child to access the interior of any *building* or *structure*, or portion thereof.

Sec. 9.2600.060.2 Open/abandoned or vacant building or structure.

Any *building* or *structure*, or portion thereof, which has broken window(s), door(s) kicked in, or open to or sign of unauthorized or unlawful entry is hereby declared to constitute a nuisance.

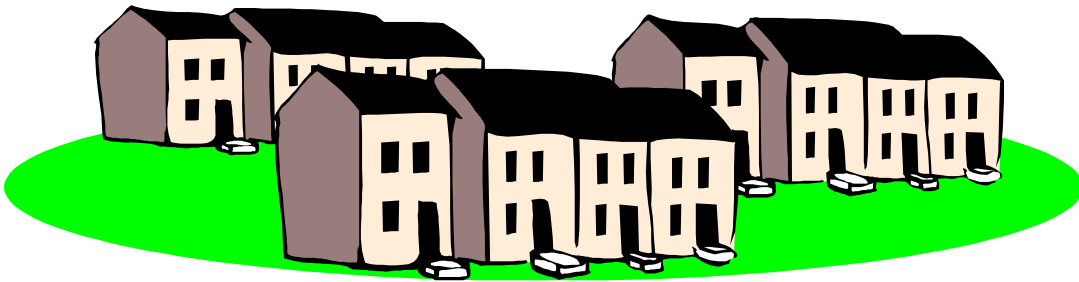
Any *building* or *structure*, or portion thereof, that is inspected and is found to have broken window(s), door(s) kick in, or open to or signs of unauthorized or unlawful entry, will be posted giving the *owner* or agent having charge of the property 72 hours to board-up or otherwise secure the property. The ~~Director of Public Safety~~ Chief of Police may request an expedited board-up, in writing, if the ~~Director of Public Safety~~ Chief of Police determines that the *structure* is an immediate threat to the public's safety, health, and welfare.

Upon failure of the *owner* or agent having charge of the property to board-up the *abandoned/vacant building* or *structure*, or portion thereof, after the posting of a notice of violation, they may be subject to prosecution in accordance with Section 9.2600.105 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the *property* in violation and board-up the *abandoned/vacant building* or *structure*, or portion thereof, and the cost of such work and administrative fees shall be paid by the *owner* or agent responsible for the property. If not paid by the *owner* or agent responsible for the *property*, the cost of such work and other associated cost shall be assessed on the *owner's* real estate tax bill.

Sec. 9.2600.060.3 Boarding standard.

Any *building* or *structure*, or portion thereof being boarded-up will be done in accordance with Appendix A of the International Property Maintenance Code as adopted by this jurisdiction.

CHAPTER 200



MULTI-FAMILY NEIGHBORHOODS

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DIVISION 1
SCOPE AND ADMINISTRATION

PART 1 – SCOPE AND APPLICATION

Sec. 10.200.101 General

10.200.101.1 Title. This chapter shall be known as *Multi-Family Neighborhoods* of the City of Gladstone, Clay County, Missouri, hereinafter referred to as “this chapter”.

10.200.101.2 Scope. The provisions of this chapter shall apply to all existing *apartments, apartment buildings, apartment communities* and associated *accessory structures, accessory uses* and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of *owners, operators, and occupants*; the *occupancy* of existing *apartments, apartment buildings, buildings, structures and premises*, and for administration, enforcement, and penalties.

10.200.101.3 Intent. This chapter shall be construed to secure its express intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued *occupancy* and maintenance of *apartments, apartment buildings, apartment communities, associated accessory structures, accessory uses, structures and premises*. Existing *apartments, apartment buildings, apartment communities, accessory structures, accessory uses, 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 herein.

10.200.101.4 Severability. If a section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

Sec. 10.200.102 Applicability

10.200.102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this chapter and any ordinance, regulation or requirement, the provisions of this chapter shall apply. Where, in a specific case, different sections of this chapter specify different requirements, the most restrictive shall govern.

10.200.102.2 Maintenance. Equipment, systems, devices, and safeguards required by this chapter or a previous regulation or code under which the *apartment, apartment building, accessory structure, structure or premises* was constructed, altered, or repaired shall be maintained in good working order. No *owner, operator, or occupant* shall cause any service, facility, equipment, or utility which is required under this section to be removed from or shut off from or discontinued from any occupied *apartment or apartment building*, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this chapter are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in

existing *apartments*, *apartment buildings* or structures. Except as otherwise specified herein, the *owner* or the *owner's* designated agent shall be responsible for the maintenance of *apartments*, *apartment buildings*, *buildings*, *accessory structures*, structures, and *premises*.

10.200.102.3 Application of building codes. Repairs, additions, or alterations to an *apartment*, *apartment building*, associated *accessory structure*, *accessory uses* or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Existing Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Property Maintenance Code*, *International Residential Code*, *International Swimming Pool and Spa Code*, and National Electric Code. Nothing in this chapter shall be construed to cancel, modify, or set aside any provisions of the Zoning and Planning Ordinance of the City.

10.200.102.4 Existing remedies. The provisions of this chapter shall not be construed to abolish or impair existing remedies of the jurisdiction, its officers, or agencies. Any requirement of this chapter that is inconsistent with any other applicable local, state, or federal law, rule, or regulation, the most stringent requirement shall apply.

10.200.102.5 Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this chapter shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer's instructions.

10.200.102.6 Historic buildings. The provisions of this chapter shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the *building official* to be safe and in the public interest of health, safety, and welfare.

10.200.102.7 Referenced building codes and standards. The building codes and standards referenced in this chapter shall be those that are listed in Division 8 and considered part of the requirements of this chapter to the prescribed extent of each such reference and as further regulated in Sections 10.200.102.7.1 and 10.200.102.7.2.

Exception: Where enforcement of a chapter provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

10.200.102.7.1 Conflicts. Where conflicts occur between provisions of this chapter and the referenced standards, the provisions of this chapter shall apply.

10.200.102.7.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this chapter, the provisions of this chapter, as applicable, shall take precedence over the provisions in the referenced code or standard.

10.200.102.8 Requirements not covered by chapter. Requirements necessary for the strength, stability, or proper operation of an existing fixture, structure, or equipment, or for the public safety, health, and general welfare, not specifically covered by this chapter, shall be determined by the *building official*.

10.200.102.9 Application of reference. References to division or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such division, section, or provision of this chapter.

10.200.102.10 Other laws. The provisions of this chapter shall not be deemed to nullify any provisions of local, state, or federal law.

PART 2 – ADMINISTRATION AND ENFORCEMENT

Sec. 10.200.103 Department of Housing Inspections

10.200.103.1 General. The department of housing inspections is hereby created and the executive official in charge thereof shall be known as the *building official*.

10.200.103.2 Appointment. The *building official* shall be appointed by the chief appointing authority of the jurisdiction.

10.200.103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *building official* shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *building official*.

10.200.103.4 Liability. The *building official*, member of the board of appeals or employee charged with the enforcement of this chapter, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this chapter or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for and damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this chapter shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *building official* or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this chapter.

10.200.103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this chapter shall be in accordance with the schedule of fee and charges as adopted by the *City*.

Sec. 10.200.104 Duties and Powers of the Building Official

10.200.104.1 General. The *building official* is hereby authorized and directed to enforce the provision of this chapter. The *building official* shall have the authority to render

interpretations of this chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

10.200.104.2 Inspections. The *building official* shall make all of the required inspections, or shall accept reports of inspections by *approved* agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *building official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

10.200.104.2.1 Public use areas. All *public use areas* will be inspected once every three (3) years or upon complaint or when deemed necessary by the *building official*. The *rental agent* and/or *property manager* will be informed when this *inspection* will be conducted and can be present when this *inspection* is conducted. Additional *inspections* may be conducted based on re-inspections, complaints or general follow-up. The *rental agent* and/or *property manager* will be informed of these *inspections*.

10.200.104.2.2 Change of occupancy. When an *occupant* moves out, said unit will be inspected before a new resident moves in. Any violations shall be corrected before a new resident can move in. In the event an inspector is unavailable to conduct said inspection and the *apartment community* does not have any outstanding life safety violations, the *apartment community* may allow a resident to move in upon verbal consent from the *building official*. The *City* reserves the right to inspect *apartments* that received verbal consent after occupancy has occurred.

10.200.104.2.3 Complaint. When an *occupant* makes a complaint about the unit or *premises* that they reside in, an *inspection* will be conducted. The *rental agent* and/or *property manager* will be informed when this *inspection* will be conducted and can be present during the *inspections*.

10.200.104.3 Right of entry. Where it is necessary to make an *inspection* to enforce the provisions of this chapter, or whenever the *building official* has reasonable cause to believe that there exists in an *apartment, apartment building, building, accessory structure, structure* or upon a *premises* a condition in violation of this chapter, the *building official* is authorized to enter the structure or *premises* at reasonable times to *inspect* or perform the duties imposed by this chapter, provided that if such *structure* or *premises* is occupied the *building official* shall present credentials to the *occupant* and request entry. If such *apartment, apartment building, building, accessory structure, structure* or *premises* is unoccupied, the *building official* shall first make a reasonable effort to locate the *owner* or other person having charge or control of the *apartment, apartment building, building, accessory structure, structure* or *premises* and request entry. If entry is refused, the *building official* shall have recourse to the remedies provided by law to secure entry.

10.200.104.4 Identification. The *building official* shall carry proper picture identification when inspecting *apartments, apartment buildings, buildings, accessory structures, structures* or *premises* in the performance of duties under this chapter.

10.200.104.5 Notices and orders. The *building official* shall issue all necessary notices or orders to ensure compliance with this chapter.

10.200.104.6 Department records. The *building official* shall keep official records of all business and activities of the department specified in the provisions of this chapter. Such records shall be retained in the official records for the period required for retention of public records.

Sec. 10.200.105 Approval

10.200.105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this chapter, the *building official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* representative, provided the building official shall first find that special individual reason makes the strict letter of this chapter impractical and the modification is in compliance with the intent and purpose of this chapter and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

10.200.105.2 Alternative materials, methods, and equipment. The provisions of this chapter are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this chapter, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *building official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this chapter, and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this chapter in quality, strength, effectiveness, fire resistance, durability and safety.

10.200.105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this chapter, or evidence that a material or method does not conform to the requirements of this chapter, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

10.200.105.3.1 Test methods. Test methods shall be as specified in this chapter or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

10.200.105.3.2 Test reports. Reports of tests shall be retained by the *building official* for the period required for retention of public records.

10.200.105.4 Used material and equipment. The use of used materials, which meet the requirements of this chapter for new materials, is permitted. Materials, equipment, and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition, and *approved* by the *building official*.

10.200.105.5 Approved materials and equipment. Materials, equipment, and devices *approved* by the *building official* shall be constructed and installed in accordance with such approval.

10.200.105.6 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this chapter, shall consist of valid research reports from *approved* sources.

Sec. 10.200.106 Violations

10.200.106.1 Unlawful acts. It shall be unlawful for a person, firm, or corporation to be in conflict with or in violation of any of the provisions of this code.

10.200.106.2 Notice of violation. The *building official* shall serve a notice of violation or order in accordance with Section 10.200.107.

10.200.106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 10.200.107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *building official* shall institute the appropriate proceeding at law or equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this chapter or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

10.200.106.4 Violation penalties. Any person who violates a provision of this chapter or fails to comply with any order made thereunder, or any certificates or permits issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by the board of appeal, or by a court of competent jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided for in section 1.100.140 of the City of Gladstone, Clay County, Missouri Code of Ordinances. The imposition of one (1) penalty for any violation shall not excuse the violation, or permit it to continue; and all such persons shall be required to correct or remedy such violation(s) or defect(s) within a reasonable time; and, when not otherwise specified, each ten (10) days that a violation continues after due notice has been served shall be deemed a separate offense.

10.200.106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal *occupancy* of a building, structure, or *premises*, or to stop an illegal act, conduct, business, or utilization of the building structure or *premises*.

Sec. 10.200.107 Notices and Orders

10.200.107.1 Notice to person responsible. Whenever the *building official* determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 10.200.107.2 and 10.200.107.3 to the person responsible for the violation as specified in this chapter. Notices for condemnation procedures shall also comply with Section 10.200.108.3.

10.200.107.2 Form. Such notice prescribed in Section 10.200.107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a corrections order allowing a reasonable time to make the repairs and improvements required to bring the *apartment*, *apartment building*, *building*, *accessory structure*, structure or *premises* into compliance with the provisions of this chapter.
5. Inform the property *owner* of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 10.200.106.3.

10.200.107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

10.200.107.4 Unauthorized tampering. Signs, tags, or seals posted or affixed by the *building official* shall not be mutilated, destroyed, or tampered with, or removed without authorization from the *building official*.

10.200.107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 10.200.106.4.

10.200.107.6 Transfer of ownership. It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation

has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* shall first furnish the grantee, transferee, mortgagee, or lessee a true copy of any compliance order or notice of violation issued by the *building official* and shall furnish to the *building official* a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

Sec. 10.200.108 Unsafe Structures and Equipment

10.200.108.1 General. When an *apartment, apartment building, building, accessory structure*, structure or equipment is found by the *building official* to be unsafe, or when an *apartment, apartment building, building, accessory structure* or structure is found unfit for human *occupancy*, or is found unlawful, such *apartment, apartment building, building, accessory structure* or structure shall be *condemned* pursuant to provisions of this chapter.

10.200.108.1.1 Unsafe structures. An unsafe *apartment, apartment building, building, accessory structure* or structure is one that is found to be dangerous to the life, health, property, or safety of the public or the *occupants* of the *apartment, apartment building, building, accessory structure* or structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such *apartment, apartment building, building, accessory structure* or structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

10.200.108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment on the *premises* or within the *apartment, apartment building, building, accessory structure* or structure which is in such disrepair or condition that such equipment is a hazard to life, health, property, or safety of the public or *occupants* of the *premises* or *apartment, apartment building, building, accessory structure* or structure.

10.200.108.1.3 Structure unfit for human occupancy. An *apartment, apartment building, building, accessory structure* or structure is unfit for human *occupancy* whenever the *building official* finds that such *apartment, apartment building, building, accessory structure* or structure is unsafe, unlawful or, because of the degree to which the *apartment, apartment building, building, accessory structure* or structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities, or other essential equipment required by this chapter, or because the location of the *apartment, apartment building, building, accessory structure* or

structure constitutes a hazard to the *occupants* of the *apartment, apartment building, building, accessory structure*, structure or to the public.

10.200.108.1.4 Unlawful structure. An unlawful *apartment, apartment building, building, accessory structure* or *structure* is one found in whole or in part to be occupied by more persons than permitted under this chapter, or was erected, altered, or occupied contrary to law.

10.200.108.1.5 Dangerous structure or premises. For the purpose of this chapter, any *apartment, apartment building, building, accessory structure*, structure or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit, or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure, or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration, neglect*, abandonment, vandalism, or by any other cause to such an extent that is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached, or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, become a harbor for vagrants, criminals, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse, or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *building official* to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system, or other cause, is determined by the *building official* to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

10.200.108.2 Closing of vacant structures. If an *apartment, apartment building, building, accessory structure* or structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the *building official* is authorized to post a placard of condemnation on the *premises* and order the *apartment, apartment building, building, accessory structure* or structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* to close up the premises within the time specified in the order, the *building official* shall cause the *premises* to be closed and secured through an available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the *apartment, apartment building, building, accessory structure* or structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

10.200.108.2.1 Authority to disconnect service utilities. The *building official* shall have the authority to authorize disconnection of utility service to the *apartment, apartment building, building, accessory structure*, structure or system regulated by this chapter and the referenced codes and standards set for in Section 10.200.102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The *building official* shall notify the serving utility and, whenever possible, the *owner* and *occupant* of the *apartment, apartment building, building, accessory structure*, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner* or *occupant* of the *apartment, apartment building, building, accessory structure*, structure or service system shall be notified in writing as soon as practical thereafter.

10.200.108.3 Notice. Whenever the *building official* has *condemned* an *apartment, apartment building, building, accessory structure*, structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner* or the person or persons responsible for the *apartment, apartment building, building, accessory structure*, structure or equipment in accordance with Section 10.200.107.3. If the notice pertains to

equipment, it shall also be placed on the *condemned* equipment. This notice shall be in the form prescribed in Section 10.200.107.2.

10.200.108.4 Placarding. Upon failure of the *owner* or person responsible to comply with the notice provisions within the time given, the *building official* shall post on the *premises* or on defective equipment a placard bearing the word “Condemned” and a statement of the penalties provided for occupying the *premises*, or operating the equipment or removing the placard.

10.200.108.4.1 Placard removal. The *building official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *building official* shall be subject to the penalties provided by this chapter.

10.200.108.5 Prohibited occupancy. Any occupied *apartment, apartment building, building, accessory structure* or structure *condemned* and placarded by the *building official* shall be vacated as ordered by the *building official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner* or any person responsible for the *premises* who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this chapter.

10.200.108.6 Abatement methods. The *owner, operator, or occupant* of a building, *premises*, or equipment deemed unsafe by the *building official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition, or other *approved* corrective action.

10.200.108.7 Record. The *building official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

Sec. 10.200.109 Emergency Measures

10.200.109.1 Imminent danger. When, in the opinion of the *building official*, there is *imminent danger* of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *building official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *building official* shall cause to be posted at each entrance to such structure a notice reading as follows: “This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Building Official.” It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

10.200.109.2 Temporary safeguard. Notwithstanding other provisions of this chapter, whenever, in the opinion of the *building official*, there is *imminent danger* due to unsafe condition, the *building official* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *building official* deems necessary to meet such emergency.

10.200.109.3 Closing streets. When necessary for public safety, the *building official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

10.200.109.4 Emergency repairs. For the purposes of this section, the *building official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

10.200.109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* where the unsafe structure is or was located for the recovery of such costs.

10.200.109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this chapter.

Sec. 10.200.110 Demolition

10.200.110.1 General. The *building official* shall order the owner of any *premises* upon which is located any *apartment building*, *building*, *accessory structure* or structure, which in the *building official* judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or *occupancy*, and such that it is unreasonable to repair the *apartment building*, *building*, *accessory structure* or structure to demolish and remove such *apartment building*, *building*, *accessory structure* or structure; or if such *apartment building*, *building*, *accessory structure* or structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owners* option; or where there has been a cessation of normal construction of any *apartment building*, *building*, *accessory building* or structure for a period of more than two years, the *building official* shall order the *owner* to demolish and remove such *apartment building*, *building*, *accessory structure* or structure or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the *building official*.

10.200.110.2 Notices and orders. All notices and orders shall comply with Section 10.200.107.

10.200.110.3 Failure to comply. If the *owner* of a *premises* fails to comply with a demolition order within the time prescribed, the *building official* shall cause the *apartment building, building, accessory structure* or structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the *apartment building, building, accessory structure* or structure is located and shall be a lien upon such real estate.

10.200.110.4 Salvage materials. When any *apartment building, building, accessory structure* or structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

Sec. 10.200.111 Means of Appeal

10.200.111.1 Application for appeal. Any person directly affected by a decision of the *building official* or a notice of order issued under this chapter shall have the right to appeal to the Board of Zoning and Adjustments (BZA), provided that a written application for appeal is filed within the time frame given to abate the violation(s) or twenty (20) days, whichever comes due first. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply, or the requirements of this chapter are adequately satisfied by other means.

Sec. 10.200.112 Stop Work Order

10.200.112.1 Authority. Whenever the *building official* finds any work regulated by this chapter being performed in a manner contrary to the provisions of this chapter or in a dangerous or unsafe manner, the *building official* is authorized to issue a stop work order.

10.200.112.2 Issuance. A stop work order shall be in writing and shall be given to the *owner* of the property, to the *registered representative*, to the person doing the work, or posted in a conspicuous place upon the premises where the work is being done. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

10.200.112.3 Emergencies. Where an emergency exists, the *building official* shall not be required to give written notice prior to stopping the work.

10.200.112.4 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 violations or unsafe condition, shall be liable to a fine of not less than fifty (\$50.00) dollars or more than five-hundred (\$500.00) dollars.

Sec. 10.200.113 Registration and Fees

10.200.113.1 Required. The *owner* of an *apartment building* and/or *apartment community* shall register said *apartment building* and/or *apartment community* in accordance with Title X, Chapter 300.

10.200.113.2 Fees. The fees for registration shall be in accordance with Title X, Chapter 300.

DIVISION 2

DEFINITIONS

Sec. 10.200.201 General.

10.200.201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings shown in this section.

10.200.201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

10.200.201.3 Terms defined in other codes. Where terms are not defined in this chapter and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Property Maintenance Code*, or *International Residential Code*, such terms shall have the meanings such as ascribed to them as stated in those codes.

10.200.201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

10.200.201.4 Parts. Whenever the words “*dwelling unit*,” “*dwelling*,” “*premises*,” “*building*,” “*rooming house*,” “*rooming unit*,” “*housekeeping unit*” or “*story*” are stated in this chapter, they shall be construed as though they were followed by the words “or any part thereof.”

Sec. 10.200.202 General Definitions.

ACCESSIBLE. A site, building, facility or portion thereof that complies with Chapter 11 of the *International Building Code*; as adopted by the *City*.

ACCESSIBLE MEANS OF EGRESS. A continuous and unobstructed way of egress travel from any accessible point in a building or facility to a public way.

ACCESSIBLE ROUTE. A continuous, unobstructed path that complies with Chapter 11 of the *International Building Code*; as adopted by the *City*.

ACCESSIBLE UNIT. A *dwelling unit* or *sleeping unit* that complies with the *International Building Code* and the provisions for accessible units in ICC A117.1; as adopted by the *City*.

ACCESSORY LIVING QUARTERS. An accessory building used solely as the temporary dwelling of guests of the occupant(s) of the *premises*; such dwelling having no kitchen facilities and not rented or otherwise used as a separate *sleeping unit*.

ACCESSORY STRUCTURE. A structure not greater than 3,000 square feet (279 m²) in floor area, and not over two stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same *premises*, *lot*, tract, or parcel.

ACCESSORY USE. A use conducted on the same lot as the primary use of the structure to which it is related; a use that is clearly incidental to, and customarily found in connection with, such primary use.

ADDITION. An extension or increase in floor area or height of a building or structure.

AISLE. An enclosed exit access component that defines and provides a path of egress travel.

AISLE ACCESSWAY. That portion of an exit access that leads to an aisle.

ALLEY. Any *public way* or thoroughfare more than 10 feet (3048 mm), but less than 16 feet (4877 mm) in width, which has been dedicated to the public for public use.

ALTERATION. Any construction or renovation to an existing structure other than repair or addition that requires a *permit*. Also, a change in a mechanical system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a *permit*.

ANCHORED. Secured in a manner that provides positive connection.

APARTMENT. A room used as a *dwelling unit* and located in a building containing only such rooms or suites with necessary passage and hallways.

APARTMENT BUILDING. A *building* containing more than four *apartments*.

APARTMENT COMMUNITY. *Property* or *premises* under common ownership with two or more *apartment buildings* designed, built, rented, leased, *let* or hired out to be occupied or that are occupied, as residences.

APARTMENT HOTEL. A *hotel* that *rents* furnished *apartments* or suites suitable for housekeeping, on a weekly or more permanent basis, and usually supplies all *hotel* services.

APARTMENT HOUSE. A *building* containing a number of separate *dwelling units*.

APPROVED. Acceptable to the *building official* or authority having jurisdiction.

AQUATIC VESSEL. A vessel, permanent or temporary, intended for swimming, bathing, or wading and that is designed and manufactured to be connected to a circulation system. Portable vessels 12 inches (305 mm) or less in designed water depth, which are drained and filled daily are not considered aquatic vessels.

ATTIC. The unfinished space between the ceiling joists of the top story and the roof assembly.

ATTIC, HABITABLE. A finished or unfinished area, not considered a *story*, complying with all of the following requirements.

1. The occupiable floor area is at least 70 square feet (17 m²), in accordance with Section R304 of the 2012 *International Residential Code*.
2. The occupiable floor area has a ceiling height in accordance with Section R305 of the 2012 *International Residential Code*.
3. The *occupiable space* is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.

AWNING. An architectural projection that provides weather protection, identity or decoration and is partially or wholly supported by the building to which it is attached. An awning is comprised of a lightweight frame structure over which a covering is attached.

BALCONY, EXTERIOR. An exterior floor projecting from and supported by a structure without additional independent supports.

BARRIER. A fence, wall, building wall, wall of an above-ground swimming pool or a combination thereof, which completely surrounds the *swimming pool* and obstructs access to the *swimming pool*.

BASEMENT. That portion of a building, which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BATHROOM GROUP. A group of fixtures, including or excluding a bidet, consisting of a water closet, lavatory, and bathtub or shower. Such fixtures are located together on the same floor level.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a *dwelling* or *sleeping unit*.

BLIGHTED. Any structure or *premises*, which by reason of dilapidation, overcrowding, lack of *ventilation*, light or sanitary facilities, or any combination of these factors are detrimental to safety and health.

BOARDING HOUSE. A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

BUILDING. Any structure used or intended for supporting or sheltering any use or *occupancy*.

BUILDING, MAIN. A *building* in which the principal use of the site is conducted.

BUILDING, TEMPORARY. A *building* used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

BUILDING LINE. The line established by law, beyond which a *building* shall not extend, except as specifically provided by law.

BUILDING OFFICIAL. The officer who is charged with the administration and enforcement of this chapter, or any duly authorized representative.

CANOPY. A permanent structure or architectural projection of rigid construction over which a covering is attached that provides weather protection, identity or decoration. A canopy is permitted to be structurally independent or supported by attachment to a *building* on one or more sides.

CITY. The City of Gladstone, Clay County, Missouri.

CHIMNEY. A primary vertical structure containing one or more flues, for the purpose of carrying gaseous products of combustion and air from a fuel-burning appliance to the outside atmosphere.

CLOSET. A small room or chamber used for storage.

CODE OFFICIAL. See “Building Official.”

COMBUSTION AIR. The air provided to fuel-burning equipment including air for fuel combustion, draft hood dilution and ventilation of the equipment enclosure.

CONDEMN. To adjudge unfit for *occupancy*.

CONDITIONAL USE. A use that would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions.

CONDITIONED AIR. Air treated to control its temperature, relative humidity or quality.

CONDITIONED AREA. That area within a building provided with heating and/or cooling systems or appliances capable of maintaining, through design or heat loss/gain, 68°F (20°C) during the heating season and/or 80°F (27°C) during the cooling season, or has a fixed opening directly adjacent to a conditioned area.

CONDITIONED SPACE. For energy purposes, space within a building that is provided with heating and/or cooling equipment or systems capable of maintaining, through design or heat loss/gain 52°F (10°C) during the heating season and 85°F (29°C) during the cooling season, or communicates directly with a conditioned space. For mechanical purposes, an area, room or space being heated or cooled by any equipment or appliance.

CONDOMINIUM. A single-*dwelling unit* in a *multiple unit dwelling* or structure, that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

CONGREGATE LIVING FACILITIES. A *building* or part thereof that contains *sleeping units* where *occupants* share bathroom and/or kitchen facilities.

CONSTRUCTION DOCUMENTS. Written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of a project necessary for obtaining a building *permit*.

COMMISSION, THE. The Neighborhood Commission of the *City*.

CORRIDOR. An enclosed *exit access* component that defines and provides a path of egress travel.

COURT. An open, uncovered space, unobstructed to the sky, bounded on three or more sides by exterior building walls or other enclosing devices.

DEBRIS. The remains of something broken down or destroyed; and/or discarded *garbage* or *rubbish*.

DECK. An exterior floor supported on a least two opposing sides by an adjacent structure, and/or posts, piers or other independent supports.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETACHED BUILDING. A separate single-story *building*, without a basement or crawl space, used for the storage or use of hazardous materials and located an approved distance from all structures.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DRIVEWAY. A private access road, the use of which is limited to persons residing, employed, or otherwise using or visiting the premises in which it is located.

DRIVEWAY APPROACH. That portion of the driveway that is located in the *City* right-of-way.

DORMITORY. A space in a *building* where group-sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories or fraternity or sorority houses.

DWELLING. Any *building* that contains one or two *dwelling units* used, intended, or designed to be built, used, *rented*, *leased*, *let* or hired out to be occupied, or that are occupied for living purposes.

DWELLING, MULTIPLE UNIT. A building or portion thereof designed for *occupancy* by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual *dwelling units* may be owned as *condominiums*, or offered for *rent*.

DWELLING, SINGLE FAMILY. A detached *dwelling unit* with kitchen and sleeping facilities, designed for *occupancy* by one family.

DWELLING, TWO FAMILY. A *building* designed or arranged to be occupied by two families living independently, with the structure having only two *dwelling units*.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

DWELLING UNIT OR SLEEPING UNIT, MULTI-STORY. See “Dwelling, Multi Unit.”

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee *owner(s)* of the property. The *easement* shall be permitted to be for use under, on or above a said lot or lots.

EGRESS COURT. A court or yard, which provides access to a *public way* for one or more *exits*.

EMERGENCY ESCAPE AND RESCUE OPENING. An operable exterior window, door or similar device that provides for a means of escape and access for rescue in the event of an emergency.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXIT. That portion of a means of egress system between the *exit access* and the exit discharge or *public way*. *Exit* components include exterior exit doors at the level of *exit discharge*, interior exit *stairways*, interior exit *ramp*, *exit passageways*, exterior exit *stairways* and exterior exit *ramps* and horizontal *exits*.

EXIT ACCESS. That portion of a means of egress system that leads from any occupied portion of a *building* or structure to an *exit*.

EXIT ACCESS DOORWAY. A door or access point along the path of egress travel from an occupied room, area or space where the path of egress enters an intervening room, *corridor*, *exit access stair* or exit access *ramp*.

EXIT ACCESS RAMP. An interior *ramp* that is not a required interior exit *ramp*.

EXIT ACCESS STAIRWAY. An interior *stairway* that is not a required interior exit *stairway*.

EXIT DISCHARGE. That portion of a means of egress system between the termination of an *exit* and *public way*.

EXIT DISCHARGE, LEVEL OF. The *story* at the point at which an *exit* terminates and an *exit* discharge begins.

EXIT HARDWARE, FIRE. See “Fire Exit Hardware.”

EXIT, HORIZONTAL. A path of egress travel from one *building* to an area in another *building* on approximately the same level, or a path of egress travel through or around a wall or partition to an area on approximately the same level in the same *building*, which affords safety from fire and smoke from the area of incidence and areas communicating therewith.

EXIT PASSAGEWAY. An exit component that is separated from other interior spaces of a *building* or structure by fire resistance-rated construction and opening protectives, and provides for a protected path of egress travel in a horizontal direction to an *exit* or to the *exit discharge*.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

EXTERIOR WALL. An above-grade wall that defines the exterior boundaries of a *building*. Includes between-floor spandrels, peripheral edges of floors, roof and basement knee walls, dormer walls, gable and end walls, walls enclosing a mansard roof and basement walls with an average below-grade wall area that is less than 50 percent of the total opaque and nonopaque area of that enclosing side.

EXTERIOR WALL COVERING. A material or assembly of materials applied on the exterior side of exterior walls for the purpose of providing a weather-resistive barrier, insulation or for aesthetics, including but not limited to, veneers, siding, exterior insulation and finish systems, architectural trim and embellishments such as cornices, soffits, and fascias.

EXTERMINATION. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other *approved pest elimination* methods.

FACE OF BUILDING, PRIMARY. The wall of a building fronting on a street or *rights-of-way*, excluding any appurtenances such as projecting fins, columns, pilasters, *canopies*, marquees, showcases or decorations.

FACILITY. All or portion of *buildings*, structures, site improvements, elements and pedestrian or vehicular routes located on a site.

FIRE AREA. The aggregate floor area enclosed and bounded by *fire walls*, *fire barriers*, exterior walls or horizontal assemblies of a *building*. Areas of the *building* not provided with surrounding walls shall be included in the *fire area* if such areas are included within the horizontal projection of the roof or floor next above.

FIRE BARRIER. A fire-resistance-rated wall assembly of materials designed to restrict the spread of fire in which continuity is maintained.

FIRE DOOR. The door component of a *fire door assembly*.

FIRE DOOR ASSEMBLY. Any combination of a fire door, frame, hardware and other accessories that together provide a specific degree of fire protection to the opening.

FIRE EXIT HARDWARE. Panic hardware that is listed for use on fire door assemblies.

FIRE LANE. A road or other passageway developed to allow the passage of fire apparatus. A *fire lane* is not necessarily intended for vehicular traffic other than fire apparatus.

FIRE PARTITION. A vertical assembly of materials designed to restrict the spread of fire in which openings are protected.

FIRE PROTECTION SYSTEM. Approved devices equipment and systems or combinations of systems used to detect a fire, activate an alarm, extinguish or control a fire, control or manage smoke and products of a fire or any combination thereof.

FIRE-RATED GLAZING. Glazing with either a fire protection rating or a fire-resistance rating.

FIRE WALL. A fire-resistance-rated wall having protected openings, which restricts the spread of fire and extends continuously from the foundation to or through the roof, with sufficient structural stability under fire conditions to allow collapse of construction on either side without collapse of the wall.

FIRE WINDOW ASSEMBLY. A window constructed and glazed to give protection against the passage of fire.

FIREBLOCKING. Building materials, or materials approved for use as fireblocking, installed to resist the free passage of flame to other areas of the *building* through concealed spaces.

FIREPLACE. A hearth and fire chamber or similar prepared place in which a fire may be made and which is built in conjunction with a *chimney*.

FLIGHT. A continuous run of rectangular treads or winders or combination thereof from one landing to another.

FLOOR AREA, GROSS. The floor area within the inside perimeter of the exterior walls of the *building* under consideration, exclusive of vent shafts and courts, without deduction for corridors, *stairways*, closets, the thickness of interior walls, columns or other features. The floor area of a *building*, or portion thereof, not provided with surrounding *exterior walls* shall be the usable area under the horizontal projection of the roof or floor above. The *gross floor area* shall not include shafts with no openings or interior courts.

FLOOR AREA, NET. The actual occupied area not including unoccupied accessory areas such as corridors, *stairways*, toilet room, mechanical rooms and closets.

FRAME STRUCTURE. A *building* or other structure in which vertical loads from floors and roofs are primarily supported by columns.

FRONTAGE. The width of a *lot* or parcel abutting a public *rights-of-way* measured at the front *property* line.

FURNACE. A vented heating appliance designed or arranged to discharge heated air into a conditioned space or through a duct or ducts.

GARAGE, PRIVATE. A *building* or a portion of a *building*, in which only private or pleasure-type *motor vehicles* used by the *tenants* of the *building* or *buildings* on the *premises* are stored or kept.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GLAZING AREA. The interior surface area of all glazed fenestration, including the area of sash, curbing or other framing elements, that enclose conditioned space. Includes the area of glazed fenestration assemblies in walls bounding conditioned *basements*.

GRADE. The finished ground level adjoining the *building* at all *exterior walls*.

GRADE FLOOR OPENING. A window or other opening located such that the sill height of the opening is not more than 44 inches (1118 mm) above or below the finished ground level adjacent to the opening.

GROUP HOME. A facility for social rehabilitation, substance abuse or mental health problems that contains a group housing arrangement that provides custodial care but does not provide acute care.

GROSS COMBINATION WEIGHT RATING (GCWR). The value specified by the manufacturer as the loaded weight of a combination (articulated) *motor vehicle*. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

GROSS VEHICLE WEIGHT RATING (GVWR). The value specified by the manufacture as the loaded weight of a single *motor vehicle*.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimize the possibility of a fall from the walking surface to a lower level.

GUARDRAIL. See “Guard.”

GUESTROOM. Any room or rooms used or intended to be used by one or more guests for living or sleeping purposes.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. *Bathrooms, toilet rooms*, closets, halls, storage or utility spaces, and similar areas are not considered *habitable space*.

HANDRAIL. A horizontal or sloping rail intended for grasping by the hand for guidance or support.

HAZARDOUS LOCATION. Any location considered to be a fire hazard for flammable vapors, dust, combustible fibers or other highly combustible substances.

HEIGHT, BUILDING. The vertical distance from grade plane to the average height of the highest roof surface.

HEIGHT, STORY. The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

HIGH-RISE BUILDING. A *building* with an occupied floor located more than 75 feet (22 860 mm) above the lowest level of the fire department vehicle access.

HISTORIC BUILDING. *Buildings* that are listed in the National Register of Historic Places, or designated as historic under an appropriate federal, state or local law.

HOME OCCUPATION. The partial use of a home for commercial or nonresidential uses by a resident thereof, which is subordinate and incidental to the use of the *dwelling* for residential purposes.

HOT TUB. See “Spa.”

HOTEL. An establishment that provides lodging and usually meals, entertainment, and various personal services for the public.

HOUSE. A structure intended or used for human habitation. This classification shall include, but not limited to the following; abode, bungalow, cottage, dwelling, lodging house, mansion and tenement.

HOUSEKEEPING UNIT. A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition, which could cause serious or life-threatening injury or death at any time.

INCLINED WALKING SURFACE. A walking surface that has a running slope not steeper than 1-unit vertical in 20 units horizontal and is not parallel to adjacent grade.

INFESTATION. The presence, within or contiguous to, a structure or *premises* of insects, rats, vermin or other pests.

INN. An establishment of many rooms, which provides lodging for travelers.

INSPECTION. The onsite assessment of the physical, operational, and on-site measures in effect on the *property* that might affect the maintenance, safety, sanitation and criminal activity of the *premises*.

INTENDED TO BE OCCUPIED AS A RESIDENCE. This refers to a *dwelling unit* or *sleeping unit* that can or will be used all or part of the time as the *occupant's* place of abode.

INTERIOR EXIT STAIRWAY. An exit component that serves to meet one or more *means of egress* design requirements, such as required number of *exits* or *exit access* travel distance, and provides for a protected path of egress travel to the *exit discharge* or *public way*.

JURISDICTION. The governmental unit that has adopted this chapter under due legislative authority.

KITCHEN. Any room or portion of a room within a building used, or designed and intended to be used, for the cooking or preparation of food.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-*labeled* items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LANDSCAPING. The finishing and adornment of unpaved *yard* areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flower. This treatment shall be permitted also to include the use of logs, rocks, fountains, water features and contouring of the earth.

LEASE. Any written or oral agreement that sets forth any and all conditions concerning the use and/or *occupancy* of any *habitable space*, in exchange for services in-kind, money or other consideration.

LET FOR OCCUPANCY OR LET. To permit, provide or offer possession or *occupancy* of a dwelling, *dwelling unit*, *rooming unit*, *building*, *premises* or structure by a person who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten *lease*, agreement, or license, or pursuant to an unrecorded agreement of contract for the sale of land.

LIVE/WORK UNIT. A *dwelling unit* or *sleeping unit* in which a significant portion of the space includes a nonresidential use that is operated by the *tenant*.

LIVING SPACE. Space within a *dwelling unit* utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

LOCAL. Located within a forty- (40) road/driving mile distance of the subject property.

LODGING HOUSE. A *single-family dwelling* where one or more occupants are primarily permanent in nature, and rent is paid for guestrooms.

LOT. A portion or parcel of land considered as a unit.

LOT LINE. A line dividing one *lot* from another, or from a street or any public place.

MANAGER. The local person, agent, firm or corporation appointed or hired by the *owner* to be responsible for the daily operation, *leasing* and/or maintenance of any rental *property*.

MEANS OF EGRESS. A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a *building* or structure to a *public way*. A *means of egress* consists of three separate and distinct parts: the *exit access*, the *exit* and the *exit discharge*.

MEDIA, SOCIAL. Forms of electronic, digital, computerized or networked information and communication technologies through which users create online communities to share information, ideas, personal messages and other content. These can take many different forms, including internet forums, blogs, wikis podcasts, and picture-, music- and video-sharing. Examples of social media applications are Google Groups, Wikipedia, My Space, Facebook, Craigslist, YouTube, Second Life, Flickr and Twitter.

MEDIA, TRADITIONAL. Communication that existed before social media such as television, radio, newspaper, magazines, newsletters, tax press and other print publications.

MORTGAGEE. The creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

MOTEL. An establishment which provides lodging and parking and in which the rooms are usually accessible from an outdoor parking area.

MOTOR VEHICLE. Any vehicle, automobile, automobile truck, automobile wagon, motorcycle, machine, tractor, trailer or semi-trailer propelled or drawn by mechanical power and used upon public streets in the transportation of passengers or property, or any combination thereof, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

MOTOR VEHICLE, BUS. Any *motor vehicle* designed, constructed and/or used for the transportation of passengers, including taxicabs.

MOTOR VEHICLE, COMMERCIAL. Any self-propelled or towed *motor vehicle* for use or used upon street, highways, road, etc. in interstate and local commerce to transport passengers or property when the vehicle—

1. Has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight or gross combination weight of 10,001 pounds (4,536 kg) or more, whichever is greater; or
2. Is designed or used to transport more than 8 passengers, including the driver, for compensation; or
3. Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
4. Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary of Transportation under 49 CFR, subtitle B, Chapter 1, subchapter C.

MOTOR VEHICLE, INOPERABLE. A *motor vehicle* which cannot be driven upon the public streets for reason, including but not limited to, being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

MOTOR VEHICLE, SCHOOL BUS. A passenger *motor vehicle*, which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary of Transportation determines is likely to be significantly used for the purpose of transporting preprimary, primary or secondary school students to such schools from home and from such schools to home.

MOTOR VEHICLE, TRUCK. Any self-propelled *commercial motor vehicle* except a *truck tractor motor vehicle*, designed and/or used for the transportation of property.

MOTOR VEHICLE, TRUCK TRACTOR. A self-propelled *commercial motor vehicle* designed and/or used primarily for pulling other vehicles.

MOTOR VEHICLE UNLICENSED. A *motor vehicle* that is not validly registered under the laws of the State of Missouri, other jurisdictions or does not display valid license plates.

MULTI-FAMILY HOUSING. See “Apartment Building.”

MULTISTORY UNIT. A *dwelling unit* or *sleeping unit* with habitable space located on more than one *story*.

NEGLECT. The lack of proper maintenance for a *building* or structure.

NONCONDITIONED SPACE. A space that is not conditioned space by insulated walls, floors or ceilings.

NORMAL TEMPERATURE AND PRESSURE. A temperature of 70°F (21°C) and a pressure of 1 atmosphere [14.7 psia (101 kPa)].

OCCUPANCY. The purpose for which a *building* or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a *building*, or having possession of a space within a *building*.

OCCUPANT LOAD. The number of persons for which the *means of egress* of a *building* or portion thereof is designed.

OCCUPIABLE SPACE. A room or enclosed space designed for human *occupancy* in which individuals congregate for amusement, educational or similar purposes or in which *occupants* are engaged at labor, and which is equipped with *means of egress* and light and *ventilation* facilities meeting the requirements of the building codes.

OPEN SPACE. Land areas that are not occupied by *buildings*, structures, *parking areas*, *streets*, *alleys* or required *yards*. *Open space* shall be permitted to be devoted to landscaping, preservation of natural features, patios and recreational areas and facilities.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or *premises* which is *let* or offered for *occupancy*.

OWNER. Any person, co-partnership, agent, *operator*, firm, corporation or fiduciary having a legal or equitable interest in the *property*; or recorded in the official records of the state, county or municipality as holding title to the *property*; or otherwise having control of the *property*, including the guardian of the estate of any such person or ordered to take possession of real *property* by a court or by the trustee of any trust owning property.

OWNER OF RECORD. The person having recorded title to the property at the point in time the record is provided by the Clay County Recorder's Office.

PANIC HARDWARE. A door-latching assembly incorporating a device that releases the latch upon the application of a force in the direction of egress travel. See also "Fire Exit Hardware."

PENTHOUSE. An enclosed, unoccupied rooftop structure used for sheltering mechanical and electrical equipment, tanks, elevators and related machinery, and vertical shaft openings.

PARK. A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

PARKING AREA. See “Paved Area.”

PARKING LOT. An open area, other than a *street*, used for the parking of *motor vehicles*.

PARKING SPACE, MOTOR VEHICLE. A space within a *building* or private or public *parking lot*, exclusive of *driveways*, ramps, columns, office and work areas, for the parking of a *motor vehicle*.

PAVED AREA. A hard surfaced area consisting of concrete, asphalt or other *approved* materials.

PERMIT. An official document or certificate issued by the authority having jurisdiction that authorizes performance of a specified activity.

PERSON. An individual, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

PERSONAL PROPERTY. Property other than real *property* consisting of things temporary or movable.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; or by other *approved pest elimination* methods.

PREMISES. A *lot*, plot or parcel of land, *easement* or *public way*, including any structures thereon.

PROPERTY. Any unimproved or improved real property, or portion thereof, located in the *City* including the *buildings* or structures located on the property regardless of condition.

PUBLIC USE AREAS. Interior or exterior rooms or spaces that are made available to the general public.

PUBLIC WAY. Any *street*, *alley* or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

RAMP. A walking surface that has a running slope steeper than 1-unit vertical in 20 units horizontal (5-percent slope).

REGISTERED REPRESENTATIVE. Any person located *locally* and designated by the property *owner* as the *owner's* representative for the purpose of accepting notice, service and summons on behalf of the property *owner* and for otherwise ensuring compliance with the requirement of this chapter.

RENT. Any written or oral agreement that sets forth any and all conditions concerning the use and/or *occupancy* of any *habitable space*, in exchange for services, in-kind, money or other consideration.

RENTAL AGENT. The local person, agent, firm or corporation appointed or hired by the *owner*, and may or may not be the manager, to be responsible for the daily operation, leasing and/or maintenance of any rental *property*.

RENTAL PROPERTY. Any *premise* that an owner rents, leases, allows another to use or occupy.

RENTAL UNIT. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

REPAIR. The reconstruction or renewal of any part of an existing *building* for the purpose of its maintenance.

RESIDENTIAL RENTAL PROPERTY. A building, or portion thereof, designed exclusively for residential occupancy, including one- or two-family *dwellings*, *condominium*, *townhome*, *townhouse*, multiple dwellings, mobile homes, house trailers, boarding and *lodging houses*, *apartment houses* and *apartment hotels*; but not *hotels*, *motels*, recreational vehicles or fifth (5th) wheels unless they are being used legally as a primary residence, that an *owner rents*, *leases* or allows another to use or occupy.

RESIDENTIAL PROPERTY. Any property that contains one or more *dwelling units* used, intended or designed to be occupied for living purposes.

RESTROOM. A room containing plumbing fixtures excluding a bathtub or shower.

RIGHTS-OF-WAY. The area on, below or above a public roadway, *streets*, *alleys*, bridges, bikeways, parkway and sidewalks in which the *City* has an ownership interest but not including: (a) the airways above the public *rights-of-way* with regard to cellular or other non-wire telecommunications or broadcast service; (b) *easements* obtained by utilities or private *easements* in platted subdivision or tracts; or (c) poles, pipes, cables conduits, wires, optical cables or other means of transmission, collection or exchange of communications, information, substances, data or electronic or electrical current or

impulses utilized by a municipally owned or operated utility pursuant to Chapter 91, RSMo, or pursuant to a charter form of government.

RISER. The vertical component of a step or *stair*.

ROOMING HOUSE. A *building* arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family *dwelling*.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except *garbage*; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metal, mineral matter, glass, crockery and dust and other similar materials.

SAFETY. The condition of being reasonably free from danger and hazards, which may cause injury or illness.

SELF-CLOSING. As applied to a *fire door* or other opening protective, means equipped with a device that will ensure closing after having been opened.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

SMOKE DETECTOR. A listed device that senses visible or invisible particles of combustion.

SOCIAL NETWORKING. See “Media, Social.”

SPA. A product intended for the immersion of persons in temperature-controlled water circulated in a closed system, and not intended to be drained and filled with each use. A *spa* usually includes a filter, a heater (electric, solar, or gas), a pump or pumps, and a control, and may also include other equipment, such as lights, blowers, and water-sanitizing equipment.

STAIR. A change in elevation, consisting of one or more risers.

STAIRWAY. One or more flights of *stairs*, either interior or exterior, with the necessary landings and platforms connecting them to form a continuous and uninterrupted passage from one level to another within or attached to a *building*, porch or deck.

STORY. That portion of a *building* included between the upper surface of a floor and the upper surface of the floor or roof next above.

STREET. Any thoroughfare or *public way* not less than 16 feet (4877 mm) in width which has been dedicated.

STREET, PRIVATE. A *rights-of-way* or *easement* in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.

STREET, PUBLIC. Any *street*, road or way dedicated to public use.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of a case. It is enough to prove that the defendant either did an act, which was prohibited, or failed to do an act, which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

SWIMMING POOL (Semi-Public Pool). A pool operated solely for and in conjunction with *apartment communities*.

TENANT. A person, corporation, partnership or group, whether or not the legal *owner* of record, occupying a *building* or portion thereof as a unit.

TENEMENT HOUSE. A *building* containing a number of separate *dwelling units*.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

TOWN HOME. See “Townhouse.”

TOWNHOUSE. A single-family *dwelling unit* constructed in a group of three (3) or more attached units in which each unit extends from foundation to roof and with a *yard* or *public way* on a least two sides.

TRAILER. A unit attached to a *motor vehicle* designed to carry property and/or passengers. A *trailer* cannot be motorized or self-operated. A *trailer* may include, but is not limited to the following; homemade, kit, farm wagon, boat, utility, flat bed, semi, livestock and camping.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

UNSHELTERED STORAGE. Any *personal property* not stored in or under a structure such as a shed, carport, garage or deck that is permanent in nature.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WALL, RETAINING. A wall not laterally supported at the top, that resists lateral soil load and other imposed loads.

WATER HEATER. Any heating appliance or equipment that heats potable water and supplies such water to the potable hot water distribution system.

WEEDS. All grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

WEEDS, NOXIOUS. A noxious weed is an invasive species of a plant that has been designated by the country, state or national agricultural authorities as one that is injurious to agricultural and/or horticultural crops, natural habitats and/or ecosystems, and/or humans or livestock.

WINDER. A tread with nonparallel edges.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same *lot* with a structure.

DIVISION 3 GENERAL REQUIREMENTS

Sec. 10.200.301 General

10.200.301.1 Scope. The provisions of this division shall govern the minimum conditions and the responsibilities of persons for maintenance of *apartments, apartment buildings, buildings, accessory structures*, structures, equipment and *exterior property*.

10.200.301.2 Responsibility. The *owner* of the *premises* shall maintain the *apartments, apartment buildings, buildings, accessory structures*, structures and *exterior property* in compliance with these requirements, except as otherwise provided for in the chapter. A person shall not occupy as owner-occupant or permit another person to occupy *premises* which are not in a sanitary and safe conditions and which do not comply with the requirements of this division. *Occupants* of an *apartment* or *apartment building* are responsible for keeping in a clean, sanitary and safe condition that part of the *apartment, apartment building* or *premises*, which they occupy and control.

10.200.301.3 Vacant structures and land. All vacant *apartments, apartment building* and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

Sec. 10.200.302 Exterior Property Areas

10.200.302.1 Sanitation. All *exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property*, which such *occupant* occupies or controls in a clean and sanitary condition.

10.200.302.2 Grading and drainage. All *premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: *Approved* retention areas and reservoirs.

10.200.302.3 Sidewalks and driveways. All sidewalks, walkways, *stairs*, *driveways*, ramps, parking lots, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

10.200.302.4 Weeds. All *premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of ten (10) inches (254 mm). On undeveloped property, weeds or plant growth shall be maintained a minimum of 100 feet (30 480 mm) from all adjacent lot lines. All noxious weeds shall be prohibited.

Upon failure of the *owner* or agent having charge of the property to cut and destroy weeds after the service of a notice of violation, they may be subject to prosecution in accordance with Section 10.200.106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property. If not paid by owner or agent responsible for the property, the cost of such abatement and other associated costs shall be assessed on the *owner's* property tax notice.

Exception: *Premises* adjacent to a stream may allow weeds or plant growth to grow beyond the height of 10 inches (254 mm) within 10 feet (3048 mm) of the edge of the stream.

10.200.302.4.1 Weeds in public rights-of-way. All *premises* and *exterior property* adjacent to the *City* or the State of Missouri's public rights-of-way along improved and/or unimproved streets shall comply with the requirements of Section 10.200.302.4, and the adjacent property *owner* shall be responsible for seeding, sodding and plantings.

Exception: Any property along a public rights-of-way that contains a drainage ditch or incline, which cannot be mowed or maintained by normal residential mower or weed removal tool(s) as determined by the *building official*.

10.200.302.5 Rodent harborage. All structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes, which will not be injurious to human health. After

pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

10.200.302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another *tenant*.

10.200.302.7 Accessory structures. All *accessory structures*, including but not limited to, *detached* garages, carports, gazebos, decks, platforms, sheds, lean-tos, fences and walls, shall be maintained structurally sound and in good repair.

10.200.302.8 Motor vehicles. Except as provided for in other regulations, no *motor vehicle* that is inoperative, unlicensed or has expired registration tags shall be parked, kept or stored on any *premises*, and no vehicle shall be at any time in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including bodywork, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

10.200.302.8.1 Parking on paved area. All *motor vehicles* shall be parked on an *approved driveway, parking area* or *paved area* that has a minimum thickness of 4 inches (101 mm) of either concrete, asphalt or other similar approved materials.

Exception: Existing gravel *driveways* classified as an approved existing non-conforming *driveway*.

10.200.302.8.2 Commercial vehicle. No person shall park or allow to be parked a *commercial motor vehicle* upon any residential lot or *premises*, improved or unimproved, in the *City*.

Exceptions:

1. *City*-owned and –operated vehicles; services vehicles owned by utility companies while in the process of services and maintenance; construction vehicles while being used in conjunction with construction or maintenance authorized by the *City*.
2. For the purpose of making delivery or pickup provided such vehicles are not left continuously parked between the hours of 9:00pm and 7:00am.
3. Pickup trucks rated at 1 ton (907 kg) or more that are owned and operated for the personal use, non-business related, of the individual who owns said pickup truck.

10.200.302.8.3 Motor vehicles for sale. Except as provide for herein no one shall park or allow to be parked a *motor vehicle* on private or public property zoned residential, commercial or manufacturing within view of a public street for the purpose of selling or advertising for sale, said *motor vehicle*.

Exception: A resident of an *apartment community* may have a *motor vehicle* for sale on said *premises*; but only one (1) *motor vehicle* per *apartment* per year.

10.200.302.8.3.1 Prima facie evidence. The fact that a “For Sale” sign, telephone number(s), email address or other advertising appears on the *motor vehicle* or the *motor vehicle* is advertised in any *traditional media* or *social media*, shall be prima facie evidence that the *motor vehicle* is parked for the purpose of being offered for sale.

10.200.302.8.4 Motor vehicle encroachment. No *motor vehicle* shall block or partially block any portion of the public sidewalk, or access pathway for public sidewalks at *driveway approaches* within the *City rights-of-way*.

10.200.302.9 Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any *apartment building*, *building*, *accessory structure* or structure on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

10.200.302.10 Open storage. All *exterior property* and *premises*, open bed pickup trucks and open *trailers* located on any *premises*, private street or public street shall be free of *unsheltered storage* of any kind.

Exception: Useable BBQ grills as long as there is not a collection thereof, lawn furniture maintained in useable condition, bicycles maintained in operational use as long as there is not a collection thereof, firewood neatly stacked in an *approved* location and the temporary storage of landscape and building materials to be used on the *premises* for a current project under construction so long as the materials are neatly stacked in an *approved* location and are not stored leaning against the side of a *building* or structure.

Sec. 10.200.303 Swimming Pools, Spas and Hot Tubs

10.200.303.1 Swimming pools. *Swimming pools* shall be maintained in a clean and sanitary condition, and in good repair.

10.200.303.2 Enclosures. All *swimming pools* shall be surrounded by a fence or *barrier* at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the fence or *barrier* away from the *swimming pool*. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety *barrier*.

10.200.303.3 Gates. Access gates shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the *swimming pool* and shall be self-closing and have a self-latching device.

10.200.303.4 Latches. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from grade, the release mechanism shall be located on the *swimming pool* side of the gate at least 3 inches (76 mm) below the top of the gate, and the gate and *barrier* shall not have an opening greater than ½ inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.

Sec. 10.200.304 Exterior Structure

10.200.304.1 General. The exterior of an *apartment, apartment building, building, accessory structure* or structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

10.00.304.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;

11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe condition shall be permitted when *approved* by the *building official*.

10.200.304.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

10.200.304.3 Premises identification. Buildings shall have *approved* address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

10.200.304.3.1 Apartment building identification. *Apartment buildings* shall have *approved* address numbers placed in a position to be plainly legible adjacent to each entrance to an *apartment building*. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

10.200.304.3.2 Apartment identification. *Apartments* shall have *approved* address numbers placed in a position adjacent to the *apartment's* primary entry door on the

latched side or on the primary entry door. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) in height with a minimum stroke width 0.5 inch (12.7 mm).

10.200.304.4 Structural members. All structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

10.200.304.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks as shall be kept in such condition so as to prevent the entry of rodents and other pests.

10.200.304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

10.200.304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

10.200.304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

10.200.304.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatments.

10.200.304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

10.200.304.11 Chimneys and towers. All *chimneys* and cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

10.200.304.12 Handrails and guards. Every *handrail* and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

10.200.304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

10.200.304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

10.200.304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

10.200.304.14 Insect screens. Every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

10.200.304.15 Doors. All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to *apartments* and *apartment buildings* shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 10.200.702.3.

10.200.304.16 Basement hatchways. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

10.200.304.17 Guards for basement windows. Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

10.200.304.18 Building security. Doors, windows or hatchways for *apartments* and *apartment buildings* shall be provided with devices designed to provide security for the *occupants* and property within.

10.200.304.18.1 Doors. Doors providing access to an *apartment* that is rented, leased or *let* shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

10.200.304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provides access to an *apartment* or *apartment building* that is rented, leased or *let* shall be equipped with a window sash locking device.

10.200.304.18.3 Basement hatchways. *Basement* hatchways that provide access to *apartments* and *apartment buildings* that are rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

10.200.304.19 Gates. All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

Sec. 10.200.305 Interior Structure

10.200.305.1 General. The interior of an *apartment*, *apartment building*, *building*, *accessory structure*, structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the *apartment*, *apartment building* or *accessory structure*, which they occupy or control, in a clean and sanitary condition. Every *owner* of an *apartment building*, *building* or structure containing an *apartment* shall maintain, in a clean and sanitary condition, the shared or public areas of the *apartment building*, *building*, structure and *exterior property*.

10.200.305.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The normal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to the wall or columns, and of wall and columns to foundations, is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Structural members are incapable of supporting nominal loads and load effects;
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and *handrails*, are not structurally sound, not properly *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *building official*.

10.200.305.2 Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

10.200.305.3 Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

10.200.305.4 Stairs and walking surfaces. Every *stair*, *ramp*, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

10.200.305.5 Handrails and guards. Every *handrail* and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

10.200.305.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

Sec. 10.200.306 Component Serviceability

10.200.306.1 General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

10.200.306.1.1 Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
 - 1.1 Collapse of footing or foundation system;
 - 1.2 Damage to footing, foundation, concrete or other structural element due to soil expansion;
 - 1.3 Adverse effects to the strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
 - 1.4 Inadequate soil as determined by a geotechnical investigation;
 - 1.5 Where the allowable bearing capacity of the soil is in doubt; or
 - 1.6 Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
 - 2.1 *Deterioration*;
 - 2.2 *Ultimate deformation*;
 - 2.3 Fractures;

- 2.4 Fissures;
 - 2.5 Spalling;
 - 2.6 Exposed reinforcement; or
 - 2.7 *Detached*, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
- 3.1 *Deterioration*;
 - 3.2 Corrosion;
 - 3.3 Elastic deformation;
 - 3.4 *Ultimate deformation*;
 - 3.5 Stress or strain cracks;
 - 3.6 Joint fatigue; or
 - 3.7 *Detached*, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
- 4.1 *Deterioration*;
 - 4.2 *Ultimate deformation*;
 - 4.3 Fractures in masonry or mortar joints;
 - 4.4 Fissures in masonry or mortar joints;
 - 4.5 Spalling;
 - 4.6 Exposed reinforcement; or
 - 4.7 *Detached*, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
- 5.1 *Deterioration*;
 - 5.2 Elastic deformation;
 - 5.3 *Ultimate deformation*;
 - 5.4 Metal fatigue; or
 - 5.5 *Detached*, dislodged or failing connections.
6. Wood that has been subjected to any of the following conditions:
- 6.1 *Ultimate deformation*;
 - 6.2 *Deterioration*;
 - 6.3 Damage from insects, rodents and other vermin;
 - 6.4 Fire damage beyond charring;
 - 6.5 Significant splits and checks;
 - 6.6 Horizontal shear cracks;
 - 6.7 Vertical shear cracks;
 - 6.8 Inadequate support;
 - 6.9 *Detached*, dislodged or failing connections; or
 - 6.10 Excessive cutting and notching.

Exceptions:

- 1. When substantiated otherwise by an *approved* method.

2. Demolition of unsafe conditions shall be permitted when *approved* by the *building official*.

Sec. 10.200.307 Handrails and Guardrails

10.200.307.1 General. Every exterior and interior flight of stairs having more than four risers shall have a *handrail* on one side of the *stair* and every open portion of a *stair*, landing, balcony, porch, deck, *ramp* or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. *Handrails* shall not be less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall not be less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: *Guards* shall not be required where exempted by the adopted building code.

Sec. 10.200.308 Rubbish and Garbage

10.200.308.1 Accumulation of rubbish or garbage. All *exterior property* and *premises*, and the interior of every *apartment*, *apartment building*, *building*, *accessory structure* or structure, shall be free from any accumulation of *rubbish* or *garbage*.

10.200.308.2 Disposal of rubbish. Every *occupant* of an *apartment* or *accessory structure* shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers. Every owner of an *apartment building*, *building*, *accessory structure*, structure and *premises* shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

10.200.308.2.1 Rubbish storage facilities. The *owner*, *tenant* and/or *occupant* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner*, *tenant*, and/or *occupant* of the *premises* shall be responsible for the removal of *rubbish*.

10.200.308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on the *premises* without first removing the doors.

10.200.308.2.3 Burning. No *person* shall burn or allow to be burned any *rubbish* within the *City*.

10.200.308.2.4 Streets. No *person* shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any *rubbish* upon streets, sidewalks, alleys, storm sewers, parkways, or other public places or upon any occupied or unoccupied *premises* within the *City*.

10.200.308.2.5 Stream. No *person* shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any *rubbish* upon streams, lakes, bodies of water or ravines within the *City*.

10.200.308.3 Disposal of garbage. Every *occupant* of an *apartment* or *accessory* structure shall dispose of all *garbage* in a clean and sanitary manner by placing such *garbage* in *approved* containers. Every owner of an *apartment building*, *building*, *accessory structure*, structure and *premises* shall dispose of all *garbage* in a clean and sanitary manner by placing such *garbage* in *approved* containers.

10.308.3.1 Garbage facilities. The *owner* of every *apartment building* shall supply one of the following: an *approved* mechanical food waste grinder in each *apartment*; an *approved* incinerator unit in the *apartment building* available to the *occupants* in each *apartment building* or the *owner* shall supply *approved* leakproof, covered, outside garbage container and the *owner* of the *apartment building* shall be responsible for the removal of *garbage*.

10.200.308.3.2 Containers. The *owner* of every *apartment building* shall provide, for the disposal of *garbage*, and at all times cause to be utilized, *approved* leakproof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

10.200.308.3.3 Burning. No *person* shall burn or allow to be burned any *garbage* within the *City*.

10.200.308.3.4 Streets. No *person* shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any *garbage* upon streets, sidewalks, alleys, storm sewers, parkways, or other public places or upon any occupied or unoccupied *premises* within the *City*.

10.200.308.5 Stream. No *person* shall cart, place, sweep, throw, deposit or dispose in such a manner that it may be carried or deposited by the elements any *garbage* upon streams, lakes, bodies of water or ravines within *City*.

10.200.308.4 Disposal of contagious disease and inflammable or explosive rubbish and garbage. Removal of wearing apparel, *bedding* or other *rubbish* or *garbage* from *apartments*, *apartment buildings*, *buildings*, *accessory structures*, *structures* or *premises* thereof, where highly infectious or contagious diseases prevail shall be performed under the supervision and direction of the county health office. Such *rubbish* and *garbage* shall not be placed in containers used for regular collections or disposal.

Highly inflammable or explosive materials shall not be placed in containers for collection, but shall be disposed of as directed by the **Director of Public Safety** Chief of Police of the *City* at the expense of the *owner* or possessor thereof.

10.200.308.5 Storage and screening of trash containers and dumpsters. All *rubbish* and *garbage* containers and dumpsters must be screened by a three (3) – sided enclosure.

Exceptions:

1. Dumpsters complying with the requirement of Title IX, Chapter 2100.
2. Existing non-conforming enclosures may remain and be maintained. If at any time they are removed the new enclosure(s) shall comply with this section

10.200.308.1 Gates. If a gate is used with said enclosure(s) the gate must be wood, chain link with screening inserts or otherwise approved by the *building official*. Gates must be kept closed.

Sec. 10.200.309 Pest Elimination

10.200.309.1 Infestation. All *apartments, apartment buildings, buildings, accessory structure* and structures shall be kept free from insects and rodent *infestation*. All *apartments, apartment buildings, buildings, accessory structure* and structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

10.200.309.2 Owner. The *owner* of an *apartment building* shall be responsible for pest elimination within the *apartment* prior to renting or leasing the *apartment*.

10.200.309.3 Apartment community. The *owner* of an *apartment building* shall be responsible for pest elimination in the public or shared areas of the *apartment buildings* and *exterior property*. If *infestation* is caused by the failure of the *occupant* to prevent such *infestation* in the area occupied, the *occupant* and *owner* shall be responsible for pest elimination.

10.200.309.4 Occupant. The *occupant* of any *apartment* shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the *infestations* are caused by defects in the *apartment building*, the *owner* shall be responsible for pest elimination.

DIVISION 4

LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

Sec. 10.200.401 General

10.200.401.1 Scope. The provisions of this division shall govern the minimum conditions and standards for light, *ventilation* and space for occupying an *apartment, apartment building, building, accessory structure* or structure.

10.200.401.2 Responsibility. The *owner* of an *apartment building* shall provide and maintain light, *ventilation* and space conditions in compliance with these requirements. A *person* shall not occupy as *owner-occupant*, or permit another *person* to occupy any *apartment, apartment building* or *premises* that do not comply with the requirements of this division.

10.200.401.3 Alternative devices. In lieu of the means for natural light and *ventilation* herein prescribed, artificial light or mechanical *ventilation* complying with the *International Building Code* shall be permitted.

Sec. 10.200.402 Light

10.200.402.1 Habitable spaces. Every *habitable space* shall have at least one window of *approved* size facing directly to the outdoors or to a court. The minimum total glazed area for every *habitable space* shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior *glazing areas* is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m²). The exterior *glazing area* shall be based on the total floor area being served.

10.200.402.2 Common halls and stairways. Every common hall and *stairway* in an *apartment, apartment building, building, accessory structure* or structure shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). *Means of egress, including exterior means of egress, stairways* shall be illuminated at all times the building space served by the *means of egress* is occupied with a minimum of 1 footcandle (11 lux) at floors, landings and treads.

10.200.402.3 Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe *occupancy* of the space and utilization of the appliances, equipment and fixtures.

Sec. 10.200.403 Ventilation

10.200.403.1 Habitable space. Every *habitable space* shall have at least one operable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 10.200.402.1.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but a minimum of 25

square feet (2.33 m²). The *ventilation* openings to the outdoors shall be based on a total floor area being ventilated.

10.200.403.2 Bathrooms and toilet rooms. Every *bathroom* and *toilet room* shall comply with the *ventilation* requirement for *habitable spaces* as required by Section 10.200.403.1, except that a window shall not be required in such spaces equipped with a mechanical *ventilation* system. Air exhausted by a mechanical *ventilation* system from a *bathroom* or *toilet room* shall discharge to the outdoors and shall not be recirculated.

10.200.403.3 Cooking facilities. Unless *approved* through the certificate of *occupancy*, cooking shall not be permitted in any *rooming unit* or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the *rooming unit* or dormitory unit.

Exceptions:

1. Where specifically *approved* in writing by the *code official*.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

10.200.403.4 Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust *ventilation* system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

10.200.403.5 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

Exception: Listed and *labeled* condensing (ductless) clothes dryers.

Sec. 10.200.404 Occupancy Limitations

10.200.404.1 Privacy. *Apartments, dwelling units, housekeeping units* and *rooming units* shall be arranged to provide privacy and be separate from other adjoining spaces.

10.200.404.2 Minimum room widths. A habitable room, other than a kitchen, shall be a minimum of 7 feet (2134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of 3 feet (614 mm) between counterfronts and appliances or counterfronts and walls.

10.200.404.3 Minimum ceiling heights. *Habitable spaces*, hallways, corridors, laundry areas, *bathrooms, toilet rooms* and habitable *basement* areas shall have a minimum clear ceiling height of 7 feet (2134 mm).

Exceptions:

1. In *apartments*, beams or girders spaced a minimum of 4 feet (1219 mm) on center and projecting a maximum of 6 inches (152 mm) below the required ceiling height.

2. *Basement* rooms in *apartment buildings* occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of 6 feet 8 inches (2033 mm) with a minimum clear height of 6 feet 4 inches (1932 mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet (2134 mm) over a minimum of one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet (1524 mm) shall be included.

10.200.404.4 Bedroom and living room requirements. Every *bedroom* and living room shall comply with the requirements of Sections 10.200.404.4.1 through 10.200.404.4.5.

10.200.404.4.1 Room area. Every living room shall contain at least 120 square feet (11.2 m²) and every bedroom shall contain a minimum of 70 square feet (6.5 m²) and every bedroom occupied by more than one person shall contain a minimum of 50 square feet (4.6 m²) of floor area for each occupant thereof.

10.200.404.4.2 Access from bedroom. *Bedrooms* shall not constitute the only means of access to other *bedrooms* or *habitable spaces* and shall not serve as the only means of egress from other *habitable spaces*.

Exception: Units that contain fewer than two *bedrooms*.

10.200.404.4.3 Water closet accessibility. Every *bedroom* shall have access to at least one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in an *apartment* shall have access to at least one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

10.200.404.4.4 Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

10.200.404.5 Other requirements. *Bedrooms* shall comply with the applicable provisions of this chapter including, but not limited to, the light, *ventilation*, room area, ceiling height and room width requirements of this division; the plumbing facilities and water-heating facilities requirements of Division 5; the heating facilities and electrical receptacles requirements of Division 6; and the smoke detector and emergency escape requirements of Division 7.

10.200.404.5 Overcrowding. *Apartments* shall not be occupied by more *occupants* than permitted by the minimum area requirements of Table 10.200.404.5.

Table 10.200.404.5
Minimum Area Requirements

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room ^{a, b}	120	120	150
Dining room ^{a, b}	N/A	80	100
Bedrooms	Shall comply with Section 10.200.404.4.1		

For SI: 1 square foot = 0.093 m²

- a. See Section 10.200.404.5.2 for combined living room/dining room spaces.
- b. See Section 10.200.404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

10.200.404.5.1 Sleeping area. The minimum occupancy area required by Table 10.200.404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 10.200.404.4

10.200.404.5.2 Combined space. Combined living room and dining room spaces shall comply with the requirements of Table 10.200.404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combined living room/dining room.

10.200.404.6 Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m²). A unit occupied by three occupants shall have a minimum clear floor area of 320 square feet (29.7 m²). These required areas shall be exclusive of the area required by Item 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and *ventilation* conforming to this chapter shall be provided.
3. The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.
4. The maximum number of *occupants* shall be three.

10.200.404.7 Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

DIVISION 5

PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

Sec. 10.200.501 General

10.200.501.1 Scope. The provisions of this division shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

10.200.501.2 Responsibility. The *owner* of the *apartment building* shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A *person* shall not occupy as *owner-occupant* or permit another *person* to occupy any *apartment*, *apartment building* or *premises*, which does not comply with the requirements of this division.

Sec. 10.200.502 Required Facilities

10.200.502.1 Apartments and dwelling units. Every *apartment* and *dwelling* unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

10.200.502.2 Rooming houses. At least one water closet, lavatory and bathtub or shower shall be supplied for each four *rooming units*.

10.200.502.3 Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten *occupants*.

10.200.502.4 Employees' facilities. A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

10.200.502.4.1 Drinking facilities. Drinking facilities shall be drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in *toilet rooms* or *bathrooms*.

10.200.502.5 Public toilet facilities. Public toilet facilities shall be maintained in a safe sanitary and working condition in accordance with the *International Plumbing Code*. Except for periodic maintenance of cleaning, public access and use shall be provided to the toilet facilities at all time during *occupancy* of the *premises*.

Sec. 10.200.503 Toilet Rooms

10.200.503.1 Privacy. *Toilet rooms* and *bathrooms* shall provide privacy and shall not constitute the only passageway to a hall or other space, or the exterior. A door and interior locking device shall be provided for all common or shared *bathrooms* and *toilet rooms* in a multiple dwelling.

10.200.503.2 Location. *Toilet rooms* and *bathrooms* serving hotel units, *rooming units* or dormitory units or *housekeeping units*, shall have access by traversing a maximum of one flight of stairs and shall have access from a common hall or passageway.

10.100.503.3 Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located a maximum of one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

10.200.503.4 Floor surface. In other than *apartments* and *dwelling units*, every *toilet room* floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

Sec. 10.200.504 Plumbing Systems and Fixtures

10.200.504.1 General. All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

10.200.504.2 Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

10.200.504.3 Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, *deterioration* or damage or for similar reasons, the *building official* shall require the defects to be corrected to eliminate the hazard.

Sec. 10.200.505 Water System

10.200.505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *International Plumbing Code*.

10.200.505.2 Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved

atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

10.200.505.3 Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

10200.505.4 Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of 110°F (43°C). A gas-burning water heater shall not be located in any *bathroom, toilet room, bedroom* or other occupied room normally kept closed, unless adequate combustion air is provided. An *approved* combination temperature and pressure-relief valve and relief valve discharge pip shall be properly installed and maintained on water heaters.

Sec. 10.200.506 Sanitary Drainage System

10.200.506.1 General. All plumbing fixtures shall be properly connected to either a public sewer system or to an *approved* private sewage disposal system.

10.200.506.2 Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

10.200.506.3 Grease interceptors. Grease interceptors and automatic grease removal devices shall be maintained in accordance with this chapter and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. All records of maintenance, cleaning and repairs shall be available for inspection by the *building official*.

Sec. 10.200.507 Storm Drainage

10.200.507.1 General. Drainage of roofs and paved areas, *yards* and courts, and other open areas on the *premises* shall not be discharged in a manner that creates a public nuisance.

DIVISION 6
MECHANICAL AND ELECTRICAL REQUIREMENTS

Sec. 10.200.601 General

10.200.601.1 Scope. The provisions of this division shall govern the minimum mechanical and electrical facilities and equipment to be provided.

10.200.601.2 Responsibility. The *owner* of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A *person* shall not occupy as *owner-occupant* or permit another *person* to occupy any *premises*, which does not comply with the requirements of this division.

Sec. 10.200.602 Heating Facilities

10.200.602.1 Facilities required. Heating facilities shall be provided in structures as required by this section.

10.200.602.2 Residential occupancies. *Apartments, apartment buildings, and 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* based on the winter outdoor design temperature for the locality indicated in Appendix D of the *International Plumbing Code*. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

10.200.602.3 Heat supply. Every *owner* and *operator* of any building who rents, leases or *lets* one or more *apartments, dwelling units* or *sleeping units* on terms, either express or implied, to furnish heat to the *occupants* thereof shall supply heat to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.
2. In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

10.200.602.4 Occupiable work space. Indoor occupiable work spaces shall be supplied with heat to maintain a minimum temperature of 65°F (18°C) during the period the space is occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.
3. In maintenance shop areas.

10.200.602.5 Room temperature measurement. The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

Sec. 10.200.603 Mechanical Equipment

10.200.603.1 Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

10.200.603.2 Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an *approved* chimney or vent.

Exception: Fuel-burning equipment and appliances which are *labeled* for unvented operation.

10.200.603.3 Clearances. All required clearances to combustible materials shall be maintained.

10.200.603.4 Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

10.200.603.5 Combustion air. A supply of air for complete combustion of the fuel and for *ventilation* of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

10.200.603.6 Energy conservation devices. Devices intended to reduce fuel consumption by attachment to the fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless *labeled* for such purpose and the installation is specifically *approved*.

Sec. 10.200.604 Electrical Facilities

10.200.604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 10.200.605.

10.200.604.2 Service. The size and usage of appliances and equipment shall serve as the basis for determining the need for additional facilities in accordance with NFPA 70. *Apartments* and *Dwelling units* shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

10.200.604.3 Electrical systems hazards. Where it is found that the electrical system in a *structure* constitutes a hazard to the *occupants* or the *structure* by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, *deterioration* or damage, or for similar reasons, the *building official* shall require the defects to be corrected to eliminate the hazard.

10.604.3.1 Abatement of electrical hazards associated with water exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

10.604.3.1.1 Electrical equipment. Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the *International Building Code*.

Exception: The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated a maximum of 600 volts or less;
2. Busway, rated a maximum of 600 volts;
3. Panelboards, rated a maximum of 600 volts;
4. Switchboards, rated a maximum of 600 volts;
5. Fire pump controllers, rated a maximum of 600 volts;
6. Manual and magnetic motor controllers;
7. Motor control centers;
8. Alternating current high-voltage circuit breakers;
9. Low-voltage power circuit breakers;
10. Protective relays, meters and current transformers;
11. Low- and medium-voltage switchgear;
12. Liquid-filled transformers;
13. Cast-resin transformers;
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
16. Luminaires that are listed as submersible;
17. Motors;
18. Electronic control, signaling and communication equipment.

10.200.604.3.2 Abatement of electrical hazards associated with fire exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

10.200.604.3.2.1 Electrical equipment. Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the *International Building Code*.

Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

Sec. 10.200.605 Electrical Equipment

10.200.605.1 Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and *approved* manner.

10.200.605.2 Receptacles. Every *habitable space* in an *apartment* shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain a least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every *bathroom* shall contain at least one receptacle. Any new *bathroom* receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

10.200.605.3 Luminaires. Every public hall, interior stairway, *toilet room*, *kitchen*, *bathroom*, laundry room, boiler room and furnace room shall contain a least one electric luminaire. Pool and spa luminaries over 15 V shall have ground fault circuit interrupter protection.

10.200.605.4 Wiring. Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

Sec. 10.200.606 Elevators, Escalators and Dumbwaiters

10.200.606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building *operator* or be posted in a publicly conspicuous location *approved* by the *building official*. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

10.200.606.2 Elevators. In *buildings* equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the *building* is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

Sec. 10.200.607 Duct Systems

10.200.607.1 General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

DIVISION 7

FIRE SAFETY REQUIREMENTS

Sec. 10.200.701 General

10.200.701.1 Scope. The provisions of this division shall govern the minimum conditions and standards for fire safety relating to *structures* and exterior *premises*, including fire safety facilities and equipment to be provided.

10.200.701.2 Responsibility. The *owner* of the *premises* shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A *person* shall not occupy as *owner-occupant* or permit another *person* to occupy any *premises* that do not comply with the requirements of this division.

Sec. 10.200.702 Means of Egress

10.200.702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the *public way*. Means of egress shall comply with the *International Fire Code*.

10.200.702.2 Aisles. The required width of aisles in accordance with the *International Fire Code* shall be unobstructed.

10.200.702.3 Locked doors. All means of egress doors shall be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *International Building Code*.

10.200.702.4 Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grills, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

Sec. 10.200.703 Fire-Resistance Ratings

10.200.703.1 Fire-resistance-rated assemblies. The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

10.200.703.2 Opening protective. Required opening protective shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable

condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

Sec. 10.200.704 Fire Protection Systems

10.200.704.1 General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the *International Fire Code*.

10.200.704.1.1 Automatic sprinkler systems. Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

10.200.704.2 Smoke alarms. Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in *apartments* and *dwellings* not regulated in Group R occupancies, regardless of *occupant* load at all of the following locations.

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of *bedrooms*.
2. In each room used for sleeping purposes.
3. In each story within an *apartment* or *dwelling unit*, including *basements* and cellars but not including crawl spaces and uninhabitable attics. In *apartments*, *dwellings* or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single- or multiple-station smoke alarms shall be installed in other groups in accordance with the *International Fire Code*.

10.200.704.3 Power source. In Group R occupancies and in *apartment* and *dwellings* not regulated as Group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Smoke alarms are permitted to be solely battery operated in *buildings* where no construction is taking place, *buildings* that are not served from a commercial power source and in existing areas of *buildings* undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or *basement* available which could provide access for building wiring without the removal of interior finishes.

10.200.704.4 Interconnection. Where more than one smoke alarm is required to be installed within an individual *apartment* or *dwelling unit* in Group R-2, R-3, R-4 and in *apartments* or *dwellings* not regulated as Group R occupancies, the smoke alarm shall be interconnected in such a manner that the activation of one alarm will activate all the

alarms in the individual unit. The alarm shall be clearly audible in all *bedrooms* over background noise levels with all intervening doors closed.

Exceptions:

1. Interconnection is not required in *buildings* which are not undergoing alterations, repairs or construction or any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or *basement* available which could provide access for interconnection without the removal of interior finishes.

DIVISION 8

REFERENCED STANDARDS

This division lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 10.200.102.7.

ASME

American Society of Mechanical Engineers
Three Park Avenue
New York, NY. 10016

Standard reference numberA17.1/CSA B44-2007
TitleSafety Code for Elevators and Escalators
Referenced in chapter section number10.200.606.1

ASTM

ASTM International
100 Barr Harbor Drive
West Conshohocken, PA. 19428

Standard reference number F 1346-91 (2003)
TitlePerformance Specifications for Safety Covers and Labeling Requirements
for All Covers for Swimming Pools, Spas and Hot Tubs
Referenced in chapter section number10.200.303.2

ICC

International Code Council
500 New Jersey Avenue, NW
6th Floor
Washington, DC. 20001

Standard referenced numberIBC-12
TitleInternational Building Code
Referenced in chapter section number10.200.102.3, 10.200.201.3,
10.200.401.3, 10.200.702.3

Standard referenced number IEBC-12
Title International Existing Building Code
Referenced in chapter section number10.200.305.11, 10.200.306.1.1

Standard referenced number IFC-12
Title International Fire Code
Referenced in chapter section number10.200.201.3, 10.200.604.3.1.1,
10.200.604.3.2.1, 10.200.702.1, 10.200.704.1, 10.200.704.2

Standard referenced number	IFGC-12
Title	International Fuel Gas Code
Referenced in chapter section number	10.200.102.3
Standard referenced number	IMC-12
Title	International Mechanical Code
Referenced in chapter section number	10.200.102.3, 10.200.201.3
Standard referenced number	IPC-12
Title	International Plumbing Code
Referenced in chapter section number	10.200.201.3, 10.200.602.2, 10.200.602.3
Standard referenced number	IRC-12
Title	International Residential Code
Referenced in chapter section number	10.200.201.3

NFPA

National Fire Protection Association
1 Batterymarch Park
Quincy, MA. 02269

Standard referenced number	25-11
Title	Inspection, Testing and Maintenance of Water-Based Fire Protection Systems
Referenced in chapter section number	10.200.704.1.1
Standard referenced number	70-11
Title	National Electric Code
Referenced in chapter section number	10.200.102.4, 10.200.201.3, 10.200.604.2

APPENDIX A

BOARDING STANDARD

Sec. 10.200.A101 General

10.200.A101.1 General. All windows and doors shall be boarded in an *approved* manner to prevent entry by unauthorized persons and shall be painted as follows

10.200.A101.1.1 Windows. Boarded up windows shall be painted a dark gray with white trim, mulleins, and muttons.

10.200.A101.1.2 Doors. Boarded up doors shall be painted white with some semblance of a doorknob or handle.

Sec. 10.200.A102 Materials

10.200.A102.1 Boarding sheet material. Boarding sheet material shall be minimum ½-inch (12.7 mm) thick wood structural panels complying with the *International Building Code*.

10.200.A102.2 Boarding framing material. Boarding framing material shall be minimum nominal 2-inch by 4-inch (51 mm by 102 mm) solid sawn lumber complying with the *International Building Code*.

10.200.A102.3 Boarding fasteners. Boarding fasteners shall be minimum ¾-inch (9.5 mm) diameter carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the *International Building Code*.

Sec. 10.200.A103 Installation

10.200.A103.1 Boarding installation. The boarding installation shall be in accordance with *approved* methods and Sections 10.200.A103.2 through 10.200.A103.5.

10.200.A103.2 Boarding sheet material. The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

10.200.A103.3 Windows. The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The 2-inch by 4-inch (51 mm by 102 mm) strong back framing material shall be cut minimum 2 inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening 6 inches minimum above the bottom and below the top of the window opening. The framing and boarding shall be predrilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

10.200.A103.4 Door walls. The door opening shall be framed with minimum 2-inch by 4-inch (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at a maximum of 24 inches (610 mm) on center. Blocking shall also be secured at a maximum of 48 inches (1219 mm) on center vertically. Boarding sheet material shall be secured with screws and nails alternating every 6 inches (152 mm) on center.

10.200.103.5 Doors. Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an *approved* manor.

Sec. 10.200.A104 Referenced Standards

ICC

International Code Council
500 New Jersey Avenue, NW
6th Floor
Washington, DC. 20001

Standard referenced number	IBC-12
Title	International Building Code
Referenced in chapter section number	10.200.A102.1, 10.200.A102.2, 10.200.A102.3

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