Chapter 1

GENERAL PROVISIONS

§ 1-1. How Code Designated and Cited.

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

§ 1-2. Definitions and Rules of Construction.

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

BOARD OF ALDERMEN — The board of aldermen of Eureka.

CITY — The City of Eureka, 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.

COUNTY — The County of St. Louis, 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.

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

MONTH — A calendar month.

NUMBER — When any subject matter, party or person is described or referred to by words importing the singular number, the plural and separate matters and persons and bodies corporate shall be deemed to be included.

OATH — Shall be construed to include any affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" or "sworn" shall be equivalent to the words "affirm" and "affirmed."

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

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

PROPERTY — Includes real and tangible and intangible personal property.

PUBLIC WAY — Includes any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

REAL PROPERTY — "Premises," "real estate" or "lands" shall be deemed to be coextensive with lands, tenements and hereditaments.

SHALL, MAY — Is mandatory, and the word "may" is permissive.

SIDEWALK — That portion of the street between the curb line and the adjacent property line which is intended for the use of pedestrians.

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

STATE — The State of Missouri.

STREET — Includes any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.

TANGIBLE PERSONAL PROPERTY — "Tangible personal property" shall include goods, chattels and all personal property, except intangible personal property.

TENANT, 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.

WRITING — Includes printing, lithographing or any other mode of representing words and letters.

YEAR — A calendar year, unless otherwise expressed, and the word "year" shall be equivalent to the words "year of our Lord."

§ 1-3. Catchlines of Sections; Provisions Considered as Continuations of Existing Ordinances.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such section, nor as any part of the section, nor, unless expressly so

provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

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 the City of Eureka, Missouri," shall be considered as a continuation thereof and not as new enactments.

§ 1-4. Severability of Parts of Code.

It is hereby declared to be the intention of the board of aldermen that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code since the same would have been enacted by the board of aldermen without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

§ 1-5. 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 anywise 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.

§ 1-6. Repeal not to Revive Former Ordinance.

When an ordinance repealing a former ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it be expressly so provided, and such former ordinance, clause or provision is set forth at length.

§ 1-7. General Penalty. [Ord. No. 329, §1; Ord. No. 1824 §1, 3-15-2005]

Except as hereinafter provided, whenever in this Code or in any other ordinance of the City or in any rule, regulation or order promulgated pursuant to such Code or other ordinance of the City any act is prohibited or is made or declared to be unlawful or an 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 seven hundred fifty dollars ($750.00), or by

imprisonment for a period of not exceeding six (6) months, or by both such fine and imprisonment.

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.

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.

The term *"misdemeanor"*, wherever the same may be found in this Code or other ordinances, shall be construed to mean and to stand in lieu of the words "a violation of ordinance".

§ 1-8. Procedure for Entry onto Property.

All entries onto property within the city by officers, employees, Etc., of the city, for the purpose of enforcing the provisions of this Code or other ordinances of the city, shall be made in the manner authorized and directed by law.

§ 1-9. City Flag Adopted. [Ord. No. 276, §2]

A flag of the following description is hereby adopted as the official flag of the city:

The flag shall be rectangular in shape and its vertical dimension shall be to its horizontal dimension as seven is to twelve.

The design shall be three vertical fields or bars, equal in area, colored gold, white and blue, in that order from the staff outward.

Upon the center field of white shall be imposed the word "EUREKA" on the upper third, the seal of the city in the middle third, and the date 1850 on the lower third.

§ 1-10. Charges for Public Information Requests. [Ord. No. 619, §1; Ord. No. 1787 §1, 9-7-2004]

There shall be a charge of ten cents ($.10) per page (not to exceed ten cents ($.10) for nine (9) by fourteen (14) inch paper), twelve dollars ($12.00) per hour for duplicating time, and the actual cost of research time. The custodian shall receive (or may require) payment prior to duplicating copies.

Fees for providing access to public records maintained on computer facilities, recording, tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine (9) by fourteen (14) inches shall include only the cost of copies, staff time, which shall not exceed the

average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.

Chapter 2

ADMINISTRATION

ARTICLE I
In General

Section 2-1. Social Security Benefits for Employees. [Ord. No. 69, §1]

The provisions of the Social Security Act as enacted by the Congress of the United States, together with the amendments thereto as from time to time passed and approved, as being applicable to municipalities, as authorized by sections 105.300 to 105.440 of the Revised Statutes of Missouri, is hereby adopted as applicable to all employees of the city.

Section 2-2. Missouri State Workmen's Compensation Act Adopted. [Ord. No. 44, §1]

The provisions of the Missouri State Workmen's Compensation Act is hereby adopted as being applicable to all employees of the city.

Section 2-2.1. Retirement System for Certain Employees. [Ord. No. 369, §1-3]

(a) The city is a "political subdivision" as defined in sections 70.600 to 70.760, the Revised Statutes of Missouri 1969, as amended, and hereby elects to have covered by the local government employees retirement system all of its eligible employees in the following classes:

(a) Present and future general employees, including all of the elected officials eligible for coverage under such retirement system and all policemen.

(b) Eligible employees shall be given credit for one hundred percent of their prior employment by the city in computing their benefits from and contribution to the system.

(c) The city clerk is hereby authorized and directed to deduct from the wages and salaries of each employee member the member contributions required by section 70.705, the Revised Statutes of Missouri 1969, as amended, and to promptly remit such deductions to the retirement system, together with the employer contribution required by section 70.370, the Revised Statutes of Missouri 1969, as amended.

Section 2-2.2. Conflicts of Interest. [Ord. No. 999, §§1-4, 9-3-1991]

(a) *Declaration of Policy.* The proper operation of municipal government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the

public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a procedure for disclosure by certain officials and employees of private financial or other interests in matters affecting the City.

(b) *Conflicts of Interest.*

(1) All elected and appointed officials as well as employees of a political subdivision must comply with Section 105.454 of the Missouri Revised Statutes on conflicts of interest as well as any other state law governing official conduct by public officials and employees.

(2) Any member of the governing body of a political subdivision who has a "substantial or private interest" in any measure, bill, order or ordinance proposed or pending before such governing body must disclose that interest to the secretary or clerk of such body and such disclosure shall be recorded in the appropriate journal of the governing body. Substantial or private interest is defined as ownership by the individual, his spouse, or his dependent children, whether singularly or collectively, directly or indirectly of:

a. Ten percent (10%) or more of any business entity; or

b. An interest having a value of ten thousand dollars ($10,000.00) or more; or

c. The receipt of a salary, gratuity, or other compensation or remuneration of five thousand dollars ($5,000.00) or more, per year from any individual, partnership, organization, or association within any calendar year.

(c) *Disclosure Reports.* Each elected official, the City Administrator and the chief purchasing officer, shall disclose the following information by May 1st if any such transactions occurred during the previous calendar year:

(1) For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred ($500.00) dollars, 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 five hundred dollars ($500.00) if any, that any business entity in which such person had a substantial interest, had with the political subdivision, other than payment of any tax, fee or penalty due to the political subdivision or transactions involving payment for providing utility service to the political subdivision, and other than transfers for no consideration to the political subdivision.

(3) The City Administrator and the chief purchasing officer also shall disclose by May 1st 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 one thousand dollars ($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 conducted by each general partnership and joint venture in which he was a partner or participant; the name and address of each partner or co-participant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the Secretary of State; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent (10%) or more of any class of the outstanding stock or limited partnership units; and the name of any publicly regulated stock exchange or automated quotation system in which the person owned two percent (2%) or more of any class of outstanding stock, limited partnership units or other equity interests;

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

(d) *Filing of Reports.*

(1) The financial interest statements shall be filed at the following times, but no person is required to file more than one (1) financial interest statement in any calendar year;

a. Every person required to file a financial interest statement shall file the statement annually not later than May 1st and the statement shall cover the calendar year ending the immediately preceding December 31st; provided that any member of the Board of Aldermen may supplement the financial interest statement to report additional interests acquired after December 31st of the covered year until the date of filing of the financial interest statement.

b. Each person appointed to office shall file the statement within thirty (30) days of such appointment or employment.

(2) Financial disclosure reports giving the financial information required in Subsection (c) hereof shall be filed with the local political subdivision and with the Secretary of State prior to January 1, 1993. After January 1, 1993, reports shall be filed with the local political subdivision and the Missouri Ethics Commission. The reports shall be available for public inspection and copying during normal business hours.

ARTICLE II
Board of Aldermen

Section 2-3. Qualifications of Aldermen. [Ord. No. 2, §1; Ord. No. 2280, §1, 11-19-2013]

No person shall be an Alderman unless he is at least eighteen (18) years of age, a citizen of the United States and an inhabitant and resident of the City for one (1) year next preceding his election, and a resident of the ward from which he is elected.

Section 2-3.1. Compensation and Expense Allowance. [Ord. No. 727 §2, 9-4-1984; Ord. No. 1962 §1, 3-20-2007]

(a) The monthly compensation for aldermen is hereby set at two hundred dollars per meeting attended.

(b) There is hereby established an expense allowance for each member of the board of aldermen in the amount of two hundred dollars ($200.00) per month.

Section 2-4. Election and Term of Office of Aldermen; Filling of Vacancies. [Ord. No. 3, §1; Ord. No. 312, §1; Ord. No. 1996 §1, 9-11-2007]

Two aldermen shall be elected from each ward by the qualified voters thereof at the first election to be held on the first Tuesday in April next after the organization of the city. At such election for aldermen, the person receiving the highest number of votes in each ward shall hold office for two years and the person receiving the next highest number of votes shall hold office for one year; but thereafter each ward shall elect annually one alderman who shall hold his office for two years.

If a vacancy occurs in the office of alderman, the same shall be filled by the mayor or person exercising the duties of the mayor, subject to the consent and approval of the board of aldermen, such appointee's term to cease at the next general municipal election, at which time a successor shall be elected for the full term or for the remainder of the term in which the vacancy occurred if such term did not expire on the date of such election.

Section 2-5. Time of Meetings; Adjourned Meetings; Special Meetings. [Ord. No. 2, §2; Ord. No. 127, §2; Ord. No. 165 §2; Ord. No. 180, §2; Ord. No. 2095 §1, 8-18-2009]

The board of aldermen shall hold regular stated meetings on the first and third Tuesdays of each month within the city. All meetings of the board of aldermen shall be held at 7:00 P.M. Adjourned meetings may be held for the purpose of completing the unfinished business of any meeting at such time as may be determined by the board. Special meetings may be called from time to time at the time designated in the notice therefore; such special meetings may be called by the mayor or by a majority of the board of aldermen members. Notice of special meetings shall be given in person or by mail at least twenty-four (24) hours before the same is set.

Section 2-5.1. Fee for Convening Special Meeting. [Ord. No. 320, §2; Ord. No. 616, §1; Ord. No. 1014, §§1 — 2, 2-18-1992; Ord. No. 1397 §1, 3-2-1999]

Each Alderman shall receive as compensation for his services as such the sum of one hundred fifty dollars ($150.00) for each regular meeting of the Board of Aldermen attended. In addition, the Mayor and each Alderman shall receive the sum of fifty dollars ($50.00) for each special meeting of the Board of Aldermen attended, which is convened

at the request or instigation of any person, persons, entity or the City of Eureka, Missouri. Said compensation rates shall be effective when the respective aldermanic terms presently being served expire and after such time the respective Aldermen shall receive the full compensation set forth above.

The payment of a fee of four hundred dollars ($400.00) to the City of Eureka shall be a condition precedent to the convening of any special meeting of the Board of Aldermen of the City of Eureka when requested or instigated by any person, persons or entity other than the City of Eureka.

Section 2-6. Aldermen to Attend all Meetings; Exceptions. [Ord. No. 2, §3]

The members of the board of aldermen shall attend all meetings of the board unless leave of absence be granted or unless excused for illness or other special reasons.

Section 2-7. Call of Meeting to Order; Roll Call. [Ord. No. 4, §1]

At the hour appointed, the mayor, or in his absence the president of the board of aldermen, shall call the board to order, the clerk shall call the roll of members and announce whether or not a quorum is present.

Section 2-8. Quorum. [Ord. No. 2, §4; Ord. No. 127]

Four aldermen shall constitute a quorum for the transaction of business. If at any meeting a quorum is not present, the meeting shall stand adjourned until the next regular or special meeting.

Section 2-9. Order of Business. [Ord. No. 4, §2; Ord. No. 195, §1]

The board of aldermen, upon the announcement of a quorum, shall proceed to transact the business before them in the following order:

(a) Approval of the minutes of the last meeting unless changed or objected to by a member, in which event they shall be approved as corrected. Copies of the minutes of the last regular meeting shall be made available to each member of the board of aldermen at least twenty-four hours before the meeting is called to order at which the minutes are to be approved.

(b) The presentation and hearing of remarks, complaints and petitions of citizens or other interested parties on all matters.

(c) Reports of officers and committees.

(d) Unfinished business.

(e) New business.

(f) The audit of all bills and claims against the city and ordering of payment of bills approved and allowed.

(g) Miscellaneous business.

Section 2-10. Rules of Parliamentary Procedure. [Ord. No. 4, §5]

The established rules of parliamentary procedure shall govern the proceedings of the board of aldermen, except when otherwise provided by ordinance, and any question arising thereunder shall be decided by the mayor, subject to appeal to the board of aldermen by any member.

Section 2-11. Powers and Duties Generally. [Ord. No. 2, §13]

The board of aldermen shall have such powers and perform such duties as may be provided by the laws of the state or by this Code or other ordinance.

Section 2-12. Journal. [Ord. No. 2, §5]

The board of aldermen shall cause to be kept a journal of its proceedings, and ayes and nays shall be entered on any question at the request of any two members. In the vote on final passage of any ordinance, the ayes and nays shall in all cases be entered in the journal showing the vote of each alderman who is in attendance.

Section 2-13. Appointment and Membership of Committees. [Ord. No. 2, §6; Ord. No. 4, §3; Ord. No. 1765 §1, 7-6-2004]

Committees may be formed from time to time to assist and advise the City regarding various matters and may be comprised of Eureka residents and/or Eureka business owners. All committees shall be appointed by the Mayor with the approval of a majority of the members of the Board of Aldermen. Members of such committees shall receive no compensation as such, but each committee member shall receive an expense allowance of fifty dollars ($50.00) upon attendance at each official committee meeting. Any member may be removed without cause upon the recommendation of the Mayor and approval by a majority of the Board of Aldermen.

Section 2-14. Referral of Business to Committees. [Ord. No. 2, §7]

New business and other matters may be referred by the mayor to the appropriate committee for consideration and report before final action by the entire board of aldermen. Such committee shall receive from the city clerk all papers relating to the subject matter referred.

Section 2-15. Ordinances — Style; Passage Generally. [Ord. No. 2, §8; Ord. No. 182, §2; Ord. No. 1252, §§1 — 2, 9-17-1996]

The style of the ordinances of the City shall be: "Be it ordained by the Board of Aldermen of the City of Eureka, Missouri, as follows": No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the Board of Aldermen shall vote for it, and the ayes and nays are entered on the journal; and all bills shall be read three (3) times before their passage. By unanimous vote of the Board of Aldermen in attendance, a bill may be read the first time by its short title if the proposed ordinance is available for public inspection prior to the time the bill is under consideration by the Board of Aldermen. If there is no

such unanimous vote from the Aldermen in attendance, the proposed ordinance shall be read the first time in its entirety. The bill may be read the second time by its short title, and if it is approved for the third reading at the same meeting at which it is introduced, it may be read the third time by its short title. No bill or ordinance shall be given a third reading or considered for final passage at the same meeting at which it is introduced, unless the motion for such third reading is unanimously adopted and such final passage is voted for affirmatively by at least two-thirds (2/3) of the members elected to the Board of Aldermen. No bill shall become an ordinance until it shall have been signed by the Mayor or person exercising the duties of the Mayor's office, or shall have been passed over the Mayor's veto.

Section 2-16. Same — Veto. [Ord. No. 2, §9]

Every bill duly passed by the board of aldermen and presented to the mayor and by him approved shall become an ordinance, and every bill presented, but returned with the mayor's objections thereto, shall stand reconsidered. The board of aldermen shall cause the objections of the mayor to be entered at large upon the journal, and proceed at its convenience to consider the question pending, which shall be in this form: "Shall the bill pass, the objections of the Mayor thereto notwithstanding?" The vote on this question shall be taken by ayes and nays and the names entered upon the journal, and if two-thirds of all the members-elect shall vote in the affirmative, the city clerk shall certify the fact on the roll and the bill thus certified shall be deposited with the city clerk, and shall become an ordinance in the same manner and with like effect as if it had received the approval of the mayor; provided, that should the mayor neglect or refuse to sign any ordinance and return the same with his objections, in writing, at the next regular meeting of the board of aldermen, the same shall become a law without his signature.

Section 2-17. Inspection of Accounts and Records. [Ord. No. 2, §10]

The board of aldermen shall, as often as it deems necessary, require any officer of the city to exhibit his accounts or other papers or records, and to make report to the board, in writing, touching any matter relating to his office.

Section 2-18. Semiannual Financial Report. [Ord. No. 2, §12]

The board of aldermen shall semiannually in January and July of each year make out and spread upon their records a full and detailed account and statement of the receipts and expenditures and indebtedness of the city for the half-year ending December 31 and June 30, preceding the date of such report, which account and statement shall be published in some newspaper in the city.

Section 2-19. Authority to Require Attendance of Witnesses and Production of Books and Papers. [Ord. No. 2, §11]

The board of aldermen, in its discretion, may compel the attendance of witnesses and the production of books and papers relating to any subject under consideration in which the interest of the city is involved, and may call on the marshal or police of the city, or the proper officers of the county to execute such process.

Section 2-19.1. Nomination and Appointment of all Boards, Commissions and Committees. [Ord. No. 1126 §§3 — 4, 10-4-1994]

(a) Provisions set forth in subsection (b) of this section shall be applicable to the nomination, consideration and appointment of all Boards, Commissions and Committees of the City, unless specifically waived by a majority of the Board of Aldermen on a case specific basis.

(b) *Selecting And Forming Committees, Etc. — Procedure.*

(1) When a board, commission or committee is authorized and formed, the Mayor, in addition to selecting candidates himself or herself, shall solicit the Board of Aldermen for candidates. Such candidates shall receive equal consideration whenever possible based on objective criteria whenever applicable such as their qualifications and ability to serve.

(2) With the exception of aldermanic representatives and other exceptions approved by the Board of Aldermen, every effort should be made to recommend and appoint representation, (a) from each Ward on a proportionally equal basis, (b) by giving preferential consideration to candidates who do not presently have family members serving on any other City of Eureka board, commission or committee, and (c) by giving preferential consideration to candidates who are not at the time of consideration serving on another City of Eureka board, commission or committee.

(3) When the Mayor selects a candidate to recommend for appointment or reappointment, such name and any other relevant information shall be forwarded to the Board of Aldermen for a reasonable period to allow ample time for review and comments, if any.

ARTICLE III
City Officers Generally

Division 1
Generally

Section 2-20. Appointive Officers. [Ord. No. 6 §§1,2]

(a) The following officers shall be appointed by the mayor, subject to the consent and approval of the board of aldermen:

(a) City Attorney.

(a) Street Commissioner.

(a) Treasurer.

(a) Building Commissioner.

(a) Chief of Police.

(a) Water and Sewer Commissioner.

(a) Such officers as may be deemed necessary by the need and best interests of the city.

(b) The following officer shall be appointed by the board of aldermen:

(b) City Clerk.

Section 2-21. Elective Officers. [Ord. No. 926, §2; Ord. No. 1659 §1, 11-19-2002]

The Mayor, Marshal and Collector shall be elected by the qualified voters of the City at an election to be held the first (1st) Tuesday following the first (1st) Monday in April and shall hold office for a term of four (4) years, and until their successors are elected and qualified.

Section 2-22. Office of Marshal and Collector Separated; Combination of Elective Offices not to be Held by One Person. [Ord. No. 30, §1]

At first general election held within the city for elective city officials, and at each successive city election thereafter, there shall be one person elected to the office of collector and another person elected to the office of marshal, and no one person shall be elected to any combination of any elective offices.

Section 2-22.1. Political Activities of City Employees — Restrictions. [Ord. No. 978 §§1-5, 12-4-1990; Ord. No. 1273 §1, 1-8-1997]

(a) No City employee shall use any City equipment or perform any act during the employee's City working hours to aid a political candidate, political party, or political cause, or use a City position to persuade, coerce, or intimidate any person in the interest of a political candidate, political party, or political cause. Nothing in this section shall be construed to limit or discourage the employee's exercise of the right to vote.

(b) No City employee may participate in any campaign or election or otherwise assist any candidate for election to any City of Eureka office, other than his/her own campaign for City elective office, other than by voting in the elections. A City employee may participate in or contribute to the election or appointment of persons to public offices other than the City of Eureka elective offices.

(c) Any violation of the provisions of Subsections (a) or (b) of this Section shall be grounds for immediate dismissal from City employment.

(d) Any City of Eureka employee who, upon being certified the winner of a City of Eureka elective office by the Board of Election Commissioners, shall immediately be deemed to have forfeited his employment with the City, with the exception of the elective office of City Collector of the City of Eureka which may be held by a City of Eureka employee. The City Marshal is not a City employee, but an elected official. Nothing in this Section should be used to construe the City Marshal as an employee.

(e) Any City of Eureka employee who files as a candidate or is chosen to fill an elective office other than a City of Eureka elective office shall immediately file with the City Administrator.

(1) A statement that no City work hours or equipment will be used to assist in the campaign or in carrying out the responsibilities of the elective office; and

(2) A statement of the steps to be taken to assure that the employee's City job responsibilities will be carried out effectively during the campaign and for the duration of the term of office.

(f) Failure to comply with this section shall be grounds for dismissal from City employment.

Division 2
Mayor

Section 2-23. Qualifications. [Ord. No. 7, §1]

No person shall be mayor unless he is at least twenty-five years of age, a citizen of the United States and a resident of the city at the time of and for at least one year next preceding his election.

Section 2-23.1. Compensation and Expense Allowance. [Ord. No. 727 §1, 9-4-1984; Ord. No. 1962 §1, 3-20-2007]

(a) The monthly compensation for the mayor shall be set at seven hundred dollars ($700.00).

(b) There is hereby established an expense allowance for the mayor in the amount of two hundred fifty dollars ($250.00) per month.

Section 2-24. To be Conservator of the Peace; Enforcement of Laws. [Ord. No. 7, §2]

The mayor shall be a conservator of the peace. He shall be active and vigilant in enforcing all laws and ordinances for the government of the city and may call on every male inhabitant of the city over eighteen years of age and under fifty, to aid in enforcing the laws.

Section 2-25. Voting Authority; Recommendations to Board of Aldermen. [Ord. No. 7, §4]

The mayor shall have a seat on and preside over the board of aldermen, but shall not vote on any question except in case of a tie, nor shall be preside or vote in cases where he is an interested party. The mayor shall from time to time communicate to the board of aldermen such measures as may, in his opinion, tend to the improvement of the finances, the police, health, security, ornament, comfort and general prosperity of the city.

Section 2-26. Approval of Ordinances. [Ord. No. 7, §5]

The mayor shall consider every bill which has been duly passed by the board of aldermen and attest its passage and the date thereof on the bill. If he approves the same, he shall

also note his approval thereon by his signature thereto. If he disapproves the bill, he shall return the bill to the board of aldermen with his objections thereto. The mayor shall have power to sign or veto any ordinance passed by the board of aldermen, subject to the passage over his veto as provided by law; provided, that should he neglect or refuse to approve an ordinance or to return same with his objections, in writing, at the next regular meeting of the board of aldermen, the same shall become a law without his signature.

Section 2-27. Appointment and Supervision of Officers. [Ord. No. 7, §6]

The mayor shall communicate to the board of aldermen his appointments of the officers to be appointed and such members of boards, employees of the city, standing committees, special committees and such other appointments as he may be directed and authorized to make. He shall exercise a general supervision over all the officers and affairs of the city, and shall take care that this Code and other ordinances of the city and state laws relating thereto are complied with.

Section 2-28. Authority to Remit Fines and Grant Pardons. [Ord. No. 7, §3]

The mayor shall have power to remit fines and forfeitures, and to grant reprieves and pardons for offenses arising under this Code or other ordinances of the city.

Section 2-29. Authority to Deal with Neglect of Subordinates; Inspection of Officers' Records. [Ord. No. 7, §7]

The mayor shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty, and he shall have power, as often as he may deem it necessary, to require any officer of the city to exhibit his accounts or other papers or records, and to make report to the board of aldermen, in writing, touching any matter relating to his office.

Section 2-30. Signing of Commissions, Warrants, Etc., Approval of Bonds. [Ord. No. 7, §8]

The mayor shall sign the commissions and appointments of all city officers elected or appointed in the city, and shall approve all official bonds unless otherwise prescribed by this Code or other ordinance. He shall sign all orders, drafts and warrants drawn on the city treasury for money, and cause the city clerk to attest the same and to affix thereto the seal of the city, and to keep an accurate record thereof in a book to be provided for that purpose.

Section 2-31. Authority to Require New Bonds. [Ord. No. 7, §9]

The mayor shall have the power, whenever in his judgement any bond held by the city from any person has become or is likely to become impaired through any cause whatsoever, to require the principal in such bond, at a time to be appointed by him to show cause why a new bond shall not be given, and unless cause is shown, such person shall be required within ten days to enter into a new bond, and in default thereof, the city shall have the right to declare a forfeiture of all rights and privileges granted by the city under the ordinance or contract of which the bond forms a part.

Section 2-32. Administering of Oaths. [Ord. No. 7, §10]

The mayor shall have power to administer oaths to witnesses to any matter under consideration in which the interest of the city is involved.

Section 2-33. Additional Duties. [Ord. No. 7, §11]

The mayor shall have such powers and perform such duties, other than those specified in this chapter, as may be provided by the laws of the state or by this Code or other ordinance.

Section 2-34. Election of Acting Mayor During Absence, Etc., of Mayor. [Ord. No. 7 §12; Ord. No. 1126 §§1 — 2, 10-4-1994]

With the exception of subsection (a) of this section, in the absence of the Mayor or whenever a vacancy shall happen in the office of Mayor by death, resignation, removal from the City, removal from office, refusal to qualify or from any cause whatsoever, the Board of Aldermen shall elect one of their own number to occupy the office of Mayor temporarily until such vacancy is filled or such disability is removed, or in the case of temporary absence, until the Mayor's return. Such Alderman, so elected, shall be styled "Acting Mayor" and shall, for the time being, perform the duties of Mayor, with all of the rights, privileges, powers and jurisdiction of the Mayor as may be prescribed by this Code, by other ordinance or by Missouri State law.

(a) In the event that such qualifying event pursuant to Section 2-34 occurs when more than six (6) months remains in the unexpired term of office of the Mayor, a special election shall be held at the earliest possible time. The Board of Aldermen shall elect an Acting Mayor pursuant to Section 2-34 until the results of such Special Election are certified by the St. Louis County Board of Election Commissioners. The successful mayoral candidate shall serve the balance of the unexpired term of the vacated office.

Division 3
City Clerk

Section 2-35. Duties Generally. [Ord. No. 8, §1]

It shall be the duty of the city clerk to attend the meetings of the board of aldermen; to keep regular minutes of their proceedings and to record the same and all ordinances which may become laws and all resolutions passed by the board in the journal. He shall have the custody of the city seal, the original rolls or ordinances and resolutions passed by the board of aldermen, the public records of the city and all such other papers, records and documents as may be entrusted to his care, and the same shall be safely and properly kept. He shall record the official bonds of all city officers, and all other bonds executed to the city and filed in his office, in a book kept for that purpose. He shall affix the city seal to and countersign all such public instruments, documents and papers as are required by law or ordinance to be attested with the seal of the city. He shall certify under his hand and the seal of the city all such documents, copies or papers in his office as may be required for the use of any city officer or private citizen. He shall furnish to the city

attorney or board of aldermen any record, document or paper in his office, which either may be called for or be used in any court; but for the same he shall take and file a receipt. He shall, whenever required, furnish the mayor, board of aldermen or any committee of the board, copies or abstracts of any books, accounts, records, vouchers or documents in his office, or any information relating to the business of the city or of his office, and he shall at all times permit the mayor, any member of the board of aldermen or any interested city officer or other person, to examine any books, papers or documents in his office.

Section 2-36. Sealing, Countersigning and Register of Commissions, Documents, Etc. [Ord. No. 8, §2]

The city clerk shall prepare, seal with the city seal and countersign all commissions and other official documents which the mayor is required to issue and keep a register thereof, in which the substance thereof shall be noted.

Section 2-37. To be General Accountant for City; Financial Responsibilities Generally. [Ord. No. 8, §3]

The city clerk shall be general accountant of the city. He shall examine, audit and adjust all accounts, claims and demands in favor of or against the city, and shall after such examination certify the amount or balance due from the city on each account with invoice and voucher therefor to the board of aldermen or authorized committee thereof. He shall keep the account of the city in proper books therefor, in which the city shall be represented by the term "city revenue" in which shall be charged all money coming into the city treasury from whatever source derived, which shall be specified. He shall also keep in proper books the accounts between the city and city treasurer, charging the latter with all money received into the treasury and crediting him with all money paid out according to law, in each case specifying the source from which such money was received and on what account paid out. He shall keep in proper books therefor the accounts between the city and all officers or persons who may have entrusted to them the collection for any money for the city, charging each with the amount which may be in his hands for collection, and crediting him with all payments into the city treasury. He shall keep in proper books therefor a statement of the condition of the city revenue in which every fund, which by law or ordinance is made a separate fund, shall be credited with all receipts into the treasury on account thereof, and shall be charged with all appropriation thereof and warrants drawn thereon.

Section 2-38. Register of Vouchers, Etc.; Account of Debts Due to or by City. [Ord. No. 8, §4]

The city clerk shall keep a register of all vouchers of approved bills and of warrants drawn on the treasury wherein shall be stated the date, number and amount thereof, and to whom and out of what fund payable. He shall also keep an account of all debts due to or by the city.

Section 2-39. City Office Supplies and Postage. [Ord. No. 8, §5]

The city clerk shall procure all stationery, books and other articles necessary for his own office and that of the mayor and other city officers, and for the board of aldermen, and shall furnish all city officers with such books as are required to be used or kept by them, of all which he shall keep an accurate account, taking receipts from all officers to whom he shall deliver such supplies. He shall also pay the postage on, or other necessary expenses of any official documents received or sent by him, or any other city officer, and for all expenses incurred under the provisions of this section he shall draw a warrant on the city treasurer, payable out of the appropriation for such purposes.

Section 2-40. Drawing and Issuance of Warrants. [Ord. No. 8, §6 & 7]

The city clerk shall draw and countersign warrants on the city treasurer for any money found to be due and owing by the city, and for which there is an appropriation specifying therein the fund or appropriation out of which such warrants shall be paid, but no such warrant shall be issued unless there be actually in the treasury money sufficient to pay the same.

The city clerk shall not draw or issue warrants for the payment of any accounts mentioned in or arising under the provisions of Section 2-39 or this section until such accounts have been approved by the board of aldermen, as evidenced by its resolution to that effect, and no warrant for the payment of money drawn by the city clerk shall be paid by the treasurer unless the same is signed by the mayor.

Section 2-41. Charging of City Collector with Taxes Levied and to be Collected. [Ord. No. 8, §8]

When the board of aldermen shall have fixed the rate of taxation for any given year, and the tax books are made out and delivered to the city collector, the city clerk shall charge the collector with the full amount of taxes levied and to be collected, and also with all other licenses and other duties of all kinds to be collected.

Section 2-42. Annual Accounting. [Ord. No. 8, §9]

The city clerk shall at the first regular meeting of the board of aldermen in April of each year render his account with the proper vouchers, to the board of aldermen, who shall settle and adjust the same.

Section 2-43. Administering of Oaths. [Ord. No. 8, §10]

The city clerk shall have the power to administer oaths or affirmations to parties or witnesses in any case in which he may deem it necessary in the course of any examination of accounts or claims presented to him to be audited, and all oaths required by law, including oaths of office, may be administered by the city clerk, except oaths in the municipal court, which shall be administered by the mayor or municipal judge.

Section 2-44. Duties at City Elections. [Ord. No. 8, §11]

The city clerk shall in all city elections perform all duties specified in the general election law of the state to be performed by the county clerk, and he shall also perform all such duties as may be from time to time required of him by law or ordinance.

Section 2-45. Handling of Special Tax Bills. [Ord. No. 8, §12]

The city clerk shall issue special tax bills as directed by this Code or other ordinance. The city clerk shall keep a record of all special tax bills issued in a special book provided for that purpose, which record shall show the date and amount of each tax bill, the rate of interest it bears and a description of the land against which it was issued, the name of the party to whom it was issued and the improvement or other purpose for which the cost was incurred. The city clerk shall record the satisfaction of any tax bill on the special book with the date of satisfaction, on presentation of the tax bill to him marked paid, or on filing by the city collector of one duplicate copy of his payment report of a special tax bill. A tax bill when satisfied, shall be considered cancelled.

Division 4
City Collector

Section 2-46. Election; Term of Office. [Ord. No. 10, §1; Ord. No. 1659 §2, 11-19-2002]

At an election to be held on the first (1st) Tuesday following the first (1st) Monday in April, there shall be elected a City Collector who shall hold office for a term of four (4) years.

Section 2-47. Qualifications. [Ord. No. 10, §2]

The person elected city collector shall be at least twenty-one years of age, a citizen of the United States and an inhabitant and resident of the city for one year next preceding his election.

Section 2-48. Duties. [Ord. No. 1155 §§1-2, 3-21-1995]

The City Collector shall perform those duties as set forth in the Revised Statutes of Missouri, as amended.

Section 2-49. Performance of Duties. [Ord. No. 1155 §§1 — 2, 3-21-1995]

The City Collector shall exercise duties related to the assessment, receipt and collection of taxes, bills, invoices, statements, assessments, fees, receipts, proceeds, licenses and every other form of general or otherwise classified City revenues only when no member of the City's administrative staff or other contracted agency is available to perform such duties. The City Collector shall prepare and present all financial journals, reports and any other records required by State Statute, City Ordinance or City policy only when no member of the City's administrative staff or other contracted agency is available to perform such duties. The City Collector may at his discretion, periodically review the financial reports, journals or other records generated by the City's administrative staff or other contracted agencies.

Section 2-50. Bond. [Ord. No. 10, §15; Ord. No. 1155 §3, 3-21-1995]

The city collector shall give bond with sufficient surety in the favor of the city in such amount as designated by the board of aldermen, but which shall not be less than two thousand dollars, which bond premium shall be paid for by the city.

Section 2-51. Appointment of Deputy Collector. [Ord. No. 10, §16; Ord. No. 1155 §3, 3-21-1995]

The board of aldermen may, as the need therefor shall arise, appoint some suitable person as a deputy collector, to aid and assist the city collector in the performance of his duties, at a salary designated by the board.

Section 2-52. When Taxes Become Delinquent. [Ord. No. 11, §3; Ord. No. 1155 §3, 3-21-1995]

All unpaid taxes for each year shall become delinquent on the first day of January of the following year.

Section 2-53. Uncollectible Taxes. [Ord. No. 10, §11; Ord. No. 1155 §3, 3-21-1995]

The board of aldermen may declare worthless any and all personal delinquent taxes which they may deem uncollectible.

Section 2-54. — 2-58. (Reserved) [1]

Division 5
City Treasurer

Section 2-59. Appointment; Term of Office. [Ord. No. 12, §1]

After the first annual April election, a city treasurer shall be appointed by the mayor, with the approval of the board of aldermen, to serve for a term of two years or until his successor be appointed and qualified.

Section 2-60. Qualifications. [Ord. No. 12, §2]

The city treasurer shall be qualified voter of the city for at least one year prior to his appointment, not less than the age of twenty-one years and a householder of the city.

Section 2-61. Duties Generally. [Ord. No. 12, §3]

The duties of the city treasurer shall be as follows:

(a) To receive and safely keep all money, warrants, books, bonds and obligations and any other property belonging to the city and entrusted to his care, and deliver the

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[1]. **Editor's Note — Ord. No. 1155 adopted on 3-21-1995 repealed §§2-48 to 2-54 placing new subject matter in §§2-48 and 2-49 and renumbering 2-55 to 2-58 as 2-50 to 2-53. Former §§2-50 — 2-54 were not replaced or renumbered. Said sections originally derived from ord. no. 10 §§6-10, 12, 14.**

same to his successor in office, taking duplicate receipts therefor, one of which he shall file with the city clerk.

(b) To pay over all money, bonds or other obligations of the city only on warrants duly drawn, passed and approved by the board of aldermen, signed by the mayor and attested by the city clerk, and not otherwise.

(c) All checks issued by the treasurer in payments of allowed disbursements as aforementioned, shall be countersigned by the mayor and attested by the city clerk.

(d) To keep in proper books a full, accurate account of all money received and disbursed by him for the city, showing the date of receipt and disbursement, from whom received and to whom paid, and on what fund received and disbursed.

(e) To keep faithful account and check upon the securities and funds of the city in the city depository.

(f) To issue to every officer or other person making payment to the city, a receipt therefor stating what the same represents.

(g) To furnish a written report to the board of aldermen at a regular monthly meeting showing the amount on hand on the last day of the preceding month.

(h) To report in detail to the board of aldermen in writing, annually, at the first regular meeting in April of each year, the receipts and expenditures of the treasury for the previous fiscal year, the specific amounts on hand belonging to the general fund and other funds the city may be credited with.

(i) To effect such other duties as may be delegated to him by the board of aldermen with respect to city funds.

Section 2-62. Bond. [Ord. No. 12, §4]

Before entering upon his duties as city treasurer, he shall give a good and adequate surety bond in favor of the city for the faithful performance of his duties, in such amount as designated by the board of aldermen, the premium for which shall be paid by the city.

Division 6
City Marshal

Section 2-63. Office Established; Election; Term of Office; Qualifications. [Ord. No. 881, §1]

There is hereby established the office of City Marshal. After the organization of the city, at the first annual election following, there shall be elected a City Marshal, who shall serve for a term of four (4) years, or until his successor be appointed, elected and qualified. He shall be not less than twenty-five (25) years of age, a citizen of the United States, the state and the county, and shall have been an inhabitant of the city for not less than one (1) year next preceding his election or appointment.

Section 2-64. To be Chief of Police; Bond. [Ord. No. 13, §2]

The marshal shall be chief of police of the city and in charge of and responsible for the efficient organization and functioning of the police department. Before entering upon his duties as marshal, he shall give a surety bond in favor of the city in a sum designated by the board of aldermen.

Section 2-65. Duties Generally; to be Subject to Supervision of Mayor and Board of Aldermen. [Ord. No. 13, §4]

The marshal as chief of police shall have custody of all the books, records, property, weapons, badges, vehicles, equipment, supplies and property of the police department and shall direct and have the responsibility for the good conduct and proper and efficient performance of their duties of the members and employees of the police department. In all such matters he shall have and be subject to the advice, counsel and orders of the mayor and board of aldermen. He shall perform such specific duties as may be provided by the laws of the state and the provisions of this Code or other ordinance.

Section 2-66. Authority to Make Arrests. [Ord. No. 13, §5; Ord. No. 2118 §1, 4-20-2010]

The marshal and his police shall make arrests, on warrant duly issued, for any offense against this Code or other ordinances of the City, or against the laws of the state, and keep the offender in the city or county jail or other proper place to prevent his escape until a trial can be had before a court having jurisdiction, unless such offender shall give a good and sufficient bond for his appearance for trial as provided by law. Pursuant to Section 544.216, RSMo., the marshal and his police may arrest, on view, and without a warrant, any person the officer sees violating or who such officer has probable cause to believe has violated any laws of the State of Missouri, including misdemeanors, or who has violated any local ordinance for which the officer has jurisdiction, even though the crime was not committed in the officer's presence.

Section 2-67. Conservator of the Peace; Execution of Warrants, Writs, Etc. [Ord. No. 13, §6]

The marshal and his police shall be conservators of the peace, and shall be active and vigilant in the preservation of good order within the city. They shall also serve and execute all warrants, subpoenas, writs and other process lawfully placed in their hands for service.

Section 2-68. Attendance at Court and Board of Aldermen Meeting. [Ord. No. 13, %%'entity-sect'%%8]

The marshal shall attend all court proceedings of the city. He shall attend all regular meetings of the board of aldermen. He shall perform such other duties as may be prescribed by law or ordinance or as directed from time to time by the mayor or board of aldermen.

Section 2-69. Duties at City Elections. [Ord. No. 13, §9]

At city elections the marshal shall perform such duties as prescribed by the general election laws of the state.

Section 2-70. Salary as Chief of Police. [Ord. No. 74, §1]

The board of aldermen is hereby authorized to pay a salary to the chief of police of the city for the performance of his duties in such office, which shall be in addition to such salary he may receive as city marshal.

Division 7
Water and Sewer Commissioner

Section 2-71. Appointment; Duties Generally. [Ord. No. 68, §1]

The mayor shall, with the approval of all members of the board of aldermen, appoint a qualified person as commissioner for duty with the city's municipal water and sewer system. Such water and sewer commissioner shall perform all duties as may be required of him in connection with the construction, operation and maintenance of the water and sewer system, and such other duties as the board of aldermen may direct.

Section 2-72. Term of Office; Removal from Office. [Ord. No. 68, §2]

The water and sewer commissioner shall serve in such capacity at the pleasure of the board of aldermen, but may be removed from office for cause shown by the mayor with the approval of a majority of all members of the board of aldermen.

Section 2-73. Salary. [Ord. No. 68, §3]

The water and sewer commissioner for all services performed, shall be paid a salary which shall be fixed by the board of aldermen, which shall be paid out of the water department funds of the city.

Division 8
Street Commissioner

Section 2-74. Appointment; Term of Office; Qualifications. [Ord. No. 14, §1]

There shall be appointed by the mayor, subject to the approval of the board of aldermen, a qualified person to serve as street commissioner, who shall serve for a term of two years, or until his successor is appointed and qualified. He shall be not less than twenty-five years of age, a citizen of the United States and the state and county, and shall have been an inhabitant of the city for not less than one year next preceding his appointment.

Section 2-75. Duties Generally. [Ord. No. 14, §2]

The street commissioner shall be the directing and operating head of and in charge of such employees, tools, equipment and materials, the property of the city, used or intended for the repair and maintenance of the public streets and highways of the city. He shall be subject to the general supervision of the mayor and the board of aldermen. He shall direct the work of the opening, maintaining and repair of all streets, alleys, bridges and public

places within the city. He shall make inspections and see that the streets, highways and public places of the city are maintained and kept in good condition and free from obstructions and defects which might impair their free and open use by the public or result in injury to persons or property. He shall, as directed by the mayor and board of aldermen or as required by this Code or other ordinance, provide, erect and maintain all street signs, traffic signs and markings.

Section 2-76. Monthly Reports. [Ord. No. 14, §3]

The street commissioner shall submit to the mayor and board of aldermen at a regular monthly meeting thereof a report of the condition of the streets within the city, making such recommendations for their repair and maintenance and requirements and repairs necessary, and shall direct the work ordered thereon.

Section 2-77. Authority to Close Streets, Etc. [Ord. No. 14, §4]

The street commissioner shall have power to close off any public avenue, street or highway, or erect barricades thereon, whenever any emergency, defect or obstruction arises, which cannot be repaired at once, placing warning signs and lights thereon warning the public of such condition.

Division 9
City Administrator

Section 2-77.1. Office Established. [Ord. No. 973 §1, 10-2-1990]

There is hereby created and established the office of city administrator for the city.

Section 2-77.2. Appointment; Term of Office. [Ord. No. 973 §2, 10-2-1990]

A qualified person shall be appointed city administrator by the mayor with the approval of a majority of the members elected to the board of aldermen. The person so appointed shall serve for an indefinite term.

Section 2-77.3. Qualifications. [Ord. No. 973 §3, 10-2-1990]

The person appointed to the office of city administrator shall be at least twenty-five (25) years of age and shall be a resident of the city or shall become such resident within six months next after the date of appointment, unless otherwise extended by the mayor and board of aldermen.

Section 2-77.4. Bond. [Ord. No. 973 §4, 10-2-1990]

The city administrator, before entering upon the duties of his office, shall file with the city a bond of fifty thousand dollars ($50,000.00) approved by the board of aldermen and conditioned upon faithful and honest performance of his duties and the rendering of full and proper accounts to the city for funds and property that shall come into his possession or control. The cost of such bond shall be paid by the city; provided, that should the city

administrator be covered by a blanket bond to the same extent, an individual bond shall not be required.

Section 2-77.5. Oath of Office. [Ord. No. 973 §5, 10-2-1990]

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

Section 2-77.6. Compensation. [Ord. No. 973 §6, 10-2-1990]

The city administrator shall receive such compensation as determined from time to time by the board of aldermen and such compensation shall be made payable semi-monthly, unless as otherwise determined for all city employees.

Section 2-77.7. Removal from Office. [Ord. No. 973 §7, 10-2-1990]

The city administrator shall serve at the pleasure of the mayor and board of aldermen. The mayor, with consent of a two-thirds majority of all members of the board of aldermen, may remove the city administrator from office at will and such city administrator may also be removed by a five-sixths vote of all members elected to the board of aldermen independently of the mayor's approval or recommendation. If requested, the mayor and board of aldermen shall grant the city administrator a public hearing within thirty days following notice of removal. During the interim, the mayor, with the approval of a majority of all aldermen or by five-sixths of all aldermen without the mayor's approval, may suspend the city administrator from duty, but shall continue his salary during said suspension.

Section 2-77.8. Duties. [Ord. No. 973 §8, 10-2-1990]

The administrator shall serve as the chief administrative assistant to the mayor. He shall be responsible for the administration and management of the business and employees of the city subject to the direction and supervision of the mayor and board of aldermen. To that end, he shall have the following duties and powers:

(a) *General Administrative.*

(1) Carry out all lawful policies established by the Mayor and Board of Aldermen.

(2) Establish short and long range goals for the City with the approval of the Mayor and Board of Aldermen.

(3) Develop a plan of organization to establish areas of responsibility, lines of authority and formal channels of communication for approval by the Mayor and Board of Aldermen.

(4) Provide for the maintenance of the physical property and equipment of the City; meet operation conditions in compliance with applicable Federal, State and local legal requirements.

(5) Provide for periodic reports to the Mayor and Board of Aldermen on all aspects of the City's activities.

(6) Provide for meaningful relationships and communications between the City and its residents.

(7) Provide for an economic, efficient and safe delivery of supplies and service necessary in rendering efficient services to the City and it's residents.

(8) Provide for a sound, stable and realistically economical insurance and bonding program for all aspects of the City liability and risk.

(9) Supervise the operational activities of all City departments.

(10) Coordinate the activities of all departments, agencies and offices.

(11) Prescribe such rules and regulations as are necessary for the conduct of the City's departments, agencies and offices, and revoke, suspend or amend any rule or regulation of any City department, agency or office.

(12) Be accountable to the Mayor and Board of Aldermen for any actions taken when requested to do so, and at all times be subject to the supervision, direction and control of the Mayor subject to review by the Board of Aldermen.

(13) Prepare and submit to the Mayor and Board of Aldermen an annual statement of objectives which will specify goals and time tables consistent with objectives set forth by the Mayor and Board of Aldermen.

(14) Perform related duties as required by the Mayor and Board of Aldermen not inconsistent with the Statutes of the State of Missouri and the ordinances of the City of Eureka.

(15) Act as project manager on City capital improvements; recommend projects, assist in the selection of consultants, represent the City's interest with contractors and utilities; direct and participate in the negotiation of right of way easements and approval of change orders.

(16) Assist City attorney on court cases, complaints, and claims involving the City and cooperate to draft ordinances and changes to City Code.

(17) Direct and participate in preparation of agenda for Board of Aldermen; attend Board of Aldermen meetings, make recommendations and implement decisions.

(b) *Budgetary*. Prepare a plan for the fiscal solvency and security of the City, including the submission of a realistic annual budget which provides for a program of sound fiscal management.

(c) *Committee Liaison.*

(1) Attend all meetings of the Board of Aldermen and, as requested, meetings of all Aldermanic Committees.

(2) Serve as liaison between the Mayor and Board of Aldermen and the various committees, boards and commissions of the City and their members.

(d) *Personnel.*

(1) Recommend the establishment and maintenance of personnel programs employing sound personnel policies and practices which are internally consistent and externally competitive.

(2) Promote the organization and continuing development of a competent City staff.

(3) Design, prepare and submit for review and adoption by the Board of Aldermen personnel procedures, position classifications and compensation schedules for employees covered in the City's personnel program.

(4) Prescribe the functions and duties of officers and employees of the City not otherwise prescribed by any ordinance of the City.

(5) Recommend to the Mayor and Board of Aldermen appointment, promotion or removal from service all officers, who are not elected to office, and employees of the city, except as otherwise provided by law or City ordinance.

(6) Establish such administrative rules and regulations, not inconsistent with law or established City policy, as may be necessary or proper for the efficient and economical conduct of the business of the City.

(e) *Financial.*

(1) Supervise in the manner prescribed by ordinance the purchase of all materials, supplies and equipment for which funds are provided in the budget or appropriated by the Board of Aldermen.

(2) Keep the Mayor and Board of Aldermen advised of the financial condition and future needs of the City, including the anticipated financial impact of proposed ordinances and make such recommendations as he may deem appropriate.

(3) Supervise the preparation of a semi-annual status report covering City financial conditions.

(4) Supervise and coordinate efforts on behalf of the city to obtain financial grants from any sources.

(f) *Press Release.* Represent the City's interests before the media and with other public jurisdictions; lobby on behalf of the City's interests.

(g) *Other Duties.* Perform such other duties as may be imposed upon him by the Mayor and Board of Aldermen or by a contract of employment with the City.

Section 2-77.9. Interference by Individual Members of Board of Aldermen. [Ord. No. 973 §9, 10-2-1990]

No individual member of the board of aldermen shall directly interfere with the conduct of any department or duties of employees subordinate to the city administrator except at the express direction of a majority of the full board of aldermen.

Section 2-77.10. Responsible for City Property. [Ord. No. 973 §10, 10-2-1990]

The Administrator shall have responsibility for all real and personal property owned or maintained by the City of Eureka. He shall have responsibility for all inventories of such property and for the upkeep of all such property. Personal property owned by the City may be sold by the Administrator only with approval of the Mayor and Board of Aldermen. Real property may be sold only when such sale is authorized by ordinance.

Section 2-77.11. Coordinate Work Activities. [Ord. No. 973 §11, 10-2-1990]

The Administrator shall coordinate the work of all the departments, agencies and offices of the City, and shall have authority to assign the employees of the City to any department where they are needed for the most effective discharge of the functions of the City government.

Section 2-77.11.1. Investigative Responsibility. [Ord. No. 973 §12, 10-2-1990]

The Administrator shall have the authority to investigate, examine or inquire into the affairs or operation of any department of the city under his jurisdiction, and shall report on any condition or fact concerning the City government required by the Mayor or Board of Aldermen.

Section 2-77.11.2. Addressing Board of Aldermen. [Ord. No. 973 §13, 10-2-1990]

The Administrator shall have the authority to appear before and address the Board of Aldermen at any meeting.

Section 2-77.11.3. Limitation on Duties and Authority. [Ord. No. 973 §14, 10-2-1990]

At no time shall the duties or authority of the Administrator supersede the actions of the Mayor and Board of Aldermen.

Section 2-77.11.4. Municipal Political Activity Prohibited. [Ord. No. 973 §15, 10-2-1990]

The City Administrator shall not use official authority or influence for the purpose of interfering with any election. While retaining the right to vote as he pleases, he shall take no active part in any political campaign or lend support to or oppose the candidacy of any person seeking elective office in the City of Eureka.

Section 2-77.11.5. Administrator Pro-Tem. [Ord. No. 973 §16, 10-2-1990]

In the event that the Administrator shall be absent due to illness, disability, vacation or for personal reasons, the Mayor may designate a temporary City Administrator who shall have and perform all of the powers, rights and duties of the Administrator during such absence but the individual so designated shall receive no additional compensation therefore.

Section 2-77.11.6. Employment Contract. [Ord. No. 973 §17, 10-2-1990]

The City of Eureka may, acting through the Mayor with the consent of a majority of the members elected to the Board of Aldermen or by a two-thirds vote of all the members elected to the Board of Aldermen, independently of the Mayor's approval or recommendation, enter into an employment contract with a person meeting the qualifications set forth in this Division. Such contract may more fully set forth the terms and conditions of this Division.

Division 10
Director of Public Works

Section 2-77.12. Office Created. [Ord. No. 503, §1]

There is hereby created an office of the director of public works for the city.

Section 2-77.13. Duties. [Ord. No. 503, §2]

The director of public works shall have the following duties and responsibilities:

(a) He shall be director of the department of public works.

(b) He shall supervise and coordinate the activities of the commissioner of water and sewers.

(c) He shall supervise and coordinate the activities of the commissioner of streets.

(d) He shall act as the personnel officer for water, sewer, building, street and public work activities; and, with the approval of the board of aldermen, shall employ personnel for such activities. In addition, after consultation with department heads, he shall recommend to the board of aldermen advancements and appropriate pay increases within the approved position classifications. He shall, with the approval of the board of aldermen in conjunction with the appropriate department head, have the power to appoint and remove all subordinate employees of the city.

(e) He shall be responsible for the security, operation and maintenance of all city-owned facilities and equipment, including but not limited to sewage treatment plants, water wells and all equipment.

(f) He shall report to the board of aldermen as to the projected and anticipated needs of the city with respect to all activities relating to public works.

(g) He shall cooperate with and exercise on-the-spot supervision of the activities of consulting engineers employed by the city on public works projects.

Section 2-77.14. Selection and Appointment. [Ord. No. 503, §3]

A committee of the board of aldermen, as a whole or a quorum thereof, at a duly constituted meeting, upon a simple majority of the vote of the members present, shall select and appoint the director of public works.

Section 2-77.15. Assumption of Position by Other Officer. [Ord. No. 503, §5]

The office of the director of public works may be fulfilled as additional duties bestowed upon any other officer of the city, elected or appointed; except, that no member of the board of aldermen may be selected or appointed to fill the position.

Section 2-77.16. Compensation. [Ord. No. 503, §4]

The board of aldermen shall determine the salary to be paid the director of public works, commensurate with his experience, abilities and job requirements, upon a resolution passed and carried at a regular constituted meeting by the members then and there present and voting.

Section 2-77.17. Bond. [Ord. No. 503, §6]

The director of public works, before entering upon the duties of his office, shall file with the city a bond of fifty thousand dollars, approved by the board of aldermen and conditioned upon faithful and honest performance of his duties and the rendering of full and proper accounts to the city for funds and property that shall come into his possession or control. The cost of such bond shall be paid by the city; provided, that should the director of public works be covered by a blanket bond to the same extent, an individual bond shall not be required.

Section 2-77.18. Removal from Office. [Ord. No. 503, §7]

The director of public works shall serve at the pleasure of the board of aldermen. The board of aldermen, with the consent of a two-thirds' majority of all members of the board of aldermen, may remove the director of public works from office at will. If requested, the board of aldermen shall grant the public works director a public hearing within thirty days following notice of removal. During the interim, a majority of all aldermen may suspend the public works director from duty, but shall continue his salary; and if, after a hearing, removal becomes final, shall pay his salary for two calendar months following the final removal date; provided, that if the public works director shall be removed for acts of dishonesty or of moral turpitude, such salary shall not be continued.

Section 2-77.19. Interference by Individual Aldermen. [Ord. No. 503, §8]

No individual member of the board of aldermen shall directly interfere with the conduct of any department or the duties of any employees subordinate to the director of public works except at the express direction of a majority of the full board of aldermen.

ARTICLE IV
Zoning Commission

Section 2-78. Created; Purposes. [Ord. No. 781 §2]

There shall be created a Zoning Commission, which shall also constitute the Planning Commission, for the purposes of establishing rules, regulations and restrictions of buildings and other structures; subdivisions, industrial, commercial and residential zones, within the City; and making, adopting, amending, and implementing a City plan by the duly appointed Planning Commission with the powers and duties herein set forth.

Section 2-79. Composition; Appointment, Term of Office and Compensation of Members; Quorum; Officers; Records. [Ord. No. 986 §2, 4-16-1991; Ord. No. 1417 §1, 9-7-1999; Ord. No. 1464 §1, 7-5-2000; Ord. No. 1490 §1, 10-17-2000]

The Zoning Commission, which shall also constitute the Planning Commission, shall consist of nine (9) members, including: the Mayor or his appointed citizen member replacement who shall serve no longer than the term of said Mayor, a member of the Board of Aldermen selected by the Board if the Board chooses to have an Alderman serve on the Commission, and seven (7) citizen members if the Mayor chooses to be a member, eight (8) citizen members if either the Mayor chooses to not be a member or the Board chooses to not have an Alderman as a member, or nine (9) citizen members if the Mayor chooses to not be a member and the Board chooses to not have an Alderman as a member, all as appointed by the Mayor and approved by a majority of the Board of Aldermen. All citizen members of the Commission shall serve without compensation. The term of each of the citizen members shall be for four (4) years, except that the terms of the citizen members first appointed shall be for varying periods so that succeeding terms will be staggered. Any vacancy in a membership shall be filled for the unexpired term by appointment as previously stated. The Board of Aldermen may remove any citizen member for cause stated in writing and after public hearing. No action of any kind relating to zoning or planning matters shall be taken or considered by the Commission unless there shall be present at the time a quorum of its members, and a quorum shall consist of five (5) members. A majority of the nine (9) members, five (5), voting in the affirmative, shall be necessary for action on any issue before the Commission. The Commission shall elect a Chairman and Secretary from among the citizen members; the term of Chairman and Secretary shall be for one (1) year with eligibility for re-election. The Commission shall hold regular meetings and special meetings as it deems essential and necessary, and shall keep a record of the minutes and proceedings of all meetings.

Section 2-80. Duties. [Ord. No. 34 §3]

It shall be the duty of the Zoning Commission to study the past and probable future development of the city and to recommend to the Board of Aldermen the boundaries of the various districts and the appropriate regulations and restrictions that should be contained in the zoning regulations. The commission shall also, whenever requested by the Board of Aldermen, study and report on such matters as the subdividing of undeveloped lands, the opening of streets and alleys, or the widening or extension of same, or any other matters concerning major improvement or development of the physical aspects of the city.

Section 2-81. Approval of Subdivision Plats. [Ord. No. 34, §4]

Before any subdivision plat is approved by the Board of Aldermen it shall first be presented to the Zoning Commission for study and approval or recommendations. However, such action of such commission shall not be binding upon the Board of Aldermen but shall be deemed advisory only.

Section 2-82. Public Hearing on Zoning Plans. [Ord. No. 34, §5]

Before any plan for the zoning of the city is submitted by the Zoning Commission to the Board of Aldermen with its recommendations, the commission shall first hold a public and open meeting of which notice thereof shall be first given at least fifteen days prior to the meeting date.

Section 2-82.1. Special Meetings. [Ord. No. 785 §§1,2]

The Planning and Zoning Commission, in addition to regularly scheduled semi-monthly meetings, may convene a special meeting, which may be called in the following manner:

(a) Upon initiation by the Chairman of the Commission, or by the Chairman in response to a request by a developer or other interested party.

(b) At the request of the Mayor; or

(c) At the request of the Board of Aldermen.

In the event a special meeting is called pursuant to the request of a developer or other interested party, a fee of One Hundred Dollars ($100.00) shall be paid in advance to the City Clerk by the developer or other interested party requesting a special meeting of the Planning and Zoning Commission. This fee shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

Section 2-83. Adoption of Rules and Regulations; Employment of Consultants, Engineers, Etc. [Ord. No. 34, §6]

The Zoning Commission may adopt such rules and regulations as are deemed necessary for the transaction of its business. It may, with the approval of the Board of Aldermen, avail itself of such services of an engineer, consultant or technician or such others as it may deem necessary.

Section 2-84. Additional Powers and Duties. [Ord. No. 34, §7]

The Zoning Commission shall have such other powers, duties and privileges as are or may be prescribed by the laws of the state or this Code or other ordinances of the city.

ARTICLE V
Park Board

Section 2-85. Established; Composition; Applicability of State Law. [Ord. No. 148, §1; Ord. No. 1693 §1, 5-20-2003; Ord. No. 2088 §1, 7-1-2009]

There is hereby established a Park Board for the city to consist of eleven (11) directors and to be governed by the provisions of Sections 90.520 through 90.570 of the Revised Statutes of Missouri.

Section 2-86. Appointment and Term of Office of Directors. [Ord. No. 148, §3; Ord. No. 1693 §1, 5-20-2003; Ord. No. 2088 §1, 7-1-2009]

The mayor shall appoint, with the approval of the board of aldermen, a total of eleven (11) directors, with three (3) from each of the three (3) wards and two (2) from the city at large. No such appointee shall be a member of the municipal government. Each year, he shall appoint, with the approval of the board of aldermen, directors as required depending upon the expiration of the respective terms of office, each of whom shall hold office for three (3) years.

Section 2-87. Organization; Rules and Regulations. [Ord. No. 148, §3; Ord. No. 1693 §1, 5-20-2003; Ord. No. 2088 §1, 7-1-2009]

The board shall elect one (1) of their members as president in June of each year and elect such other officers as they may deem necessary. They shall make and adopt such bylaws, rules and regulations for their guidance for the government of the park as may be expedient, not inconsistent with Sections 90.500 through 90.570 of the Revised Statutes of Missouri.

Section 2-88. Duties Generally. [Ord. No. 148, §4]

The park board shall have exclusive control of the expenditures of all money credited to the park fund and the supervision, care and custody of all city park sites and recreational areas and shall in general carry out the spirit and intent of sections 90.500 through 90.570 of the Revised Statutes of Missouri.

Section 2-89. Compensation of Directors. [Ord. No. 148, §5; Ord. No. 153, §2; Ord. No. 686, §1]

The directors of the park board shall receive no compensation as such, but each member of the park board shall receive an expense allowance of fifty dollars per month upon attendance at the regular monthly meeting of the park board.

Section 2-90. Annual Report. [Ord. No. 148, §6]

The park board of directors shall make on or before the second Monday in June an annual report to the Board of Aldermen, stating the condition of their trust on the first day of May of each year in accordance with section 90.560 of the Revised Statutes of Missouri.

Section 2-91. Service Charge for Lights and Concession Stands. [Ord. No. 620, §1]

(a) There shall be charged a fee of ten dollars per game for the usage of any ball field in any city park at night involving the use of lighted fields.

(b) There shall be a charge of five dollars per day for the use of any concession stand by any public or private organization in any city park as part of a planned activity.

These charges shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty-cent figure and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

Section 2-92. through Section 2-100. (Reserved)

ARTICLE VI
Eureka Tree Ordinance [2]

Section 2-101. Title. [Ord. No. 1809 §1, 12-21-2004]

This Article shall be known and may be cited as the "Eureka Tree Ordinance" of the City of Eureka, Missouri.

Section 2-102. Purpose and Intent. [Ord. No. 1809 §1, 12-21-2004]

Purpose. It is the purpose of this ordinance to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other plants within the City of Eureka, Missouri.

Intent. It is the intent of the Board of Aldermen of the City of Eureka that the terms of this ordinance shall be construed so as to promote:

(1) The planting, maintenance, restoration and survival of desirable trees and shrubs that are on public property within the City of Eureka.

(2) The protection of community residents from personal injury and property damage, and the protection of the City of Eureka from property damage caused or threatened by the improper planting, maintenance or removal of trees, shrubs or other plants located within the community.

Section 2-103. Definitions. [Ord. No. 1809 §1, 12-21-2004]

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2. **Editor's Note — Ord. no. 1809 §1, adopted December 21, 2004, repealed sections 2-101 — 2-104, article VI "Tree Board" and enacted new provisions set out herein. Former sections 2-101 — 2-104 derived from ord. no. 1041 §1, 11-17-1992; ord. no. 1780 §1, 8-17-2004.**

COMMUNITY FOREST MANAGER — The official designee of the City Administrator given responsibility for administration of the community forestry program.

PARK TREES — Trees, shrubs, bushes and all other woody vegetation in public parks.

PRIVATE COMMUNITY FOREST — All trees within the municipal boundaries of the City but not owned by the City.

PUBLIC COMMUNITY FOREST — All street and park trees and other trees owned by the City.

STREET TREES — Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.

TREE TOPPING — The severe cutting back of limbs in stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Section 2-104. Creation and Establishment of Eureka Tree Board. [Ord. No. 1809 §1, 12-21-2004]

There is hereby created and established a Tree Board for the City which shall consist of the thirteen (13) members who also serve on the Park Board. Tree Board members shall meet the requirements for appointment and term of office as set forth in Article V, Section 2-86 and shall meet at the regularly scheduled meetings of the Park Board which shall be held the first (1st) Tuesday following the week of the first (1st) monthly Board of Aldermen meeting. Seven (7) members of the Tree Board shall constitute a quorum for the transaction of business. If at any Tree Board meeting a quorum is not present, the meeting shall stand adjourned until the next regular or special meeting.

Section 2-105. Tree Board Member Compensation. [Ord. No. 1809 §1, 12-21-2004]

No member of the Tree Board or voluntary worker shall receive compensation for services performed on behalf of the City except as might otherwise be paid to members of the Park Board.

Section 2-106. Duties of Tree Board. [Ord. No. 1809 §1, 12-21-2004]

The Tree Board shall have the following duties:

(a) Review and approve policies and procedures for the planting, maintenance, preservation and removal of trees and shrubs on City rights-of-way and property.

(b) Review and recommend to the Mayor and Board of Aldermen a budget for the planting, management, preservation and removal of trees and shrubs on City rights-of-way and property.

(c) Review and submit to the Mayor and Board of Aldermen an annual report with recommendations for the management of trees and shrubs on City rights-of-way and property.

(d) Perform such other duties as may be requested by the Mayor and approved by a majority of the members of the Board of Aldermen.

Section 2-107. Designation of Community Forest Manager. [Ord. No. 1809 §1, 12-21-2004]

The Mayor may, with consent of the Board of Aldermen, designate an individual to serve as the Community Forest Manager and to perform the duties and exercise the authority conferred upon him by City ordinance. This person's duties will be to execute the management plan for the planting, care, cultivation, pruning and removal of trees, shrubs and plants to be planted, preserved and removed or replaced for the City.

Section 2-108. Street Tree Species to be Planted. [Ord. No. 1809 §1, 12-21-2004]

The City shall maintain an extensive list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the City upon request to aid in the selection of trees for private and public properties. The list of recommended trees shall be updated periodically by the Community Forest Manager to reflect new developments or species that will affect the population of the community forest.

Section 2-109. Public Tree Care. [Ord. No. 1809 §1, 12-21-2004]

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the rights-of-way or bounds of all streets, alleys, lanes, squares and public grounds as may be necessary to ensure public safety. All work done on public trees will be consistent with the most current American National Standards Institute A300 Tree Shrub and Other Woody Plant Maintenance — Standard Practices.

Section 2-110. Distances and Clearances for Planting. [Ord. No. 1809 §1, 12-21-2004]

No street tree shall be planted that the Community Forest Manager deems to present an unsafe, hazardous or unlawful location due to the proximity to streets, sidewalks, curbs, street corners, fire hydrants or utilities.

Section 2-111. Tree Topping. [Ord. No. 1809 §1, 12-21-2004]

It shall be unlawful as a normal practice for any person or City department to top any street tree, park tree or other tree on public property. Trees severely damaged by storms or other causes where other pruning practices are impractical may be exempted from this Section at the determination of the Community Forest Manager.

Section 2-112. Dead or Diseased Tree Removal on Private Property. [Ord. No. 1809 §1, 12-21-2004]

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 City Tree Board will notify in writing the owners of such trees. Said owners at their own expense shall perform the removal within sixty (60) days after the date of service

notice. In the event of failure of the owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of the removal on the owners' property tax notice or directly bill the owner.

Section 2-113. Enforcement. [Ord. No. 1809 §1, 12-21-2004]

The Community Forest Manager or his designee is hereby charged with the responsibility for the enforcement of this ordinance and may serve notice to any person, firm or corporation in violation thereof or institute legal proceedings as may be required and the City Attorney is hereby authorized to institute appropriate proceeding to that end.

Section 2-114. Violations or Penalties. [Ord. No. 1809 §1, 12-21-2004]

Any person who violates or causes a violation of any provision of this Article shall be punishable, upon conviction, in accordance with Section 1-7 of this Code, and each day such violation continues shall be deemed a separate offense. Any charge brought under this Section shall be brought by the City, at its option, to the Associate Circuit Court of the City or the Circuit Court of the County.

The municipal prosecutor may bring an action in the name of the municipality to restrain or prevent a violation of any provision of this Article or any continuance of any such violation.

Chapter 2A

ALARM SYSTEMS

Section 2A-1. Short Title. [Ord. No. 557, §1]

This chapter shall be known and cited as the alarm systems code.

Section 2A-2. Scope. [Ord. No. 557, §1]

The provisions of this chapter shall apply to the incorporated area of the city.

Section 2A-3. Definitions. [Ord. No. 557, §1]

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ALARM BUSINESS — The business of any person who sells, leases, maintains, services, repairs, alters, replaces, moves or installs any alarm system or causes same to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed in or on any building, structure, facility or premises.

ALARM SYSTEM — Any mechanical or electrical device which is designed to be actuated manually or automatically upon the detection of an unauthorized entry, intrusion or other emergency in or on any building, structure, facility or premises through the emission of a sound or transmission of a signal or message.

ALARM USER — A person who uses an alarm system to protect any building, structure, facility or premises.

AUTOMATIC DIALING DEVICE — An alarm system which automatically dials a specific telephone number and transmits an emergency message by a recording over regular telephone lines when actuated.

DEPARTMENT — The police department of St. Louis County or the police department of the city of Eureka.

DIRECT SIGNAL ALARM SYSTEM — An alarm system which provides for a special telephone line that is directly connected to the department and has an outlet at the department which emits a sound or transmits a signal or both when actuated.

DIRECTOR — The director of licenses of the county, including his duly authorized agent.

FALSE ALARM — Any activation of an alarm system intentionally or by inadvertence, negligence or unintentional act to which the department responds, including activation

caused by the malfunction of the alarm system; except, that the following shall not be considered false alarms:

(a) When the superintendent determines that an alarm has been caused by the malfunction of the indicator at the department;

(b) When the superintendent determines that an alarm has been caused by damage, testing or repair of telephone equipment or lines by the telephone company; provided, that such incidents are promptly reported to the telephone company;

(c) When an alarm is caused by an attempted and unauthorized or illegal entry of which there is visible evidence;

(d) When an alarm is intentionally caused by the resident acting under a reasonable belief that a need exists to call the department;

(e) When an alarm is followed by a call to the department cancelling the alarm by giving proper information, prior to the arrival of the department at the source of the alarm.

LICENSEE — A person who has obtained an alarm business license under the provisions of this chapter.

SUPERINTENDENT — The superintendent of the county police department, including his duly authorized agents, and the chief of police of the city, including his duly authorized agents.

Section 2A-4. License Required — Exception. [Ord. No. 557, §1]

No person shall engage or attempt to engage in the business of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing alarm systems in or on any building or premises without a currently valid license issued pursuant to this chapter.

No license shall be required of a person who sells alarm systems at his place of business or by mail but neither installs, maintains nor offers to install or maintain such system. For the purpose of this exception, maintenance does not include the repair, without additional charge, of an alarm system under warranty.

Section 2A-5. Same — Application and Renewal. [Ord. No. 557, §1]

(a) A person applying for a license or a renewal thereof shall file a written, verified application with the director on a form provided by the director, which form shall require the following information:

(1) The name, address and telephone number of the applicant;

(2) The business or trade name, address and telephone number of the applicant;

a. If an unincorporated association, the names and addresses of the associates;

b. If a corporation, the corporation's registered name and the names and addresses of the officers of the corporation;

c. If an individual proprietorship, the name and address of the proprietor;

(3) The address of all offices of the alarms business in the county;

(4) The name and address of any employee, agent, corporate officer, partner or business associate whose position in the alarm business gives him access to information in the installation and use of alarm systems for alarm users;

(5) Specifications of the alarm systems to be dealt in;

(6) A copy of the instructions provided alarm users;

(7) A statement of repair and maintenance service to be made available to applicant's customers;

(8) Name and address of the person designated by the applicant to receive notice issued under this chapter; and

(9) Signature of the applicant.

(b) A person applying for a renewal of a license shall file his application not less than ten days before his license expires.

(c) Upon the filing of a license application, the director shall conduct an investigation to determine whether the following requirements are satisfied:

(1) That the information contained in the license application is true;

(2) That the applicant for a license, or an individual who is an employee, agent, corporate officer, partner or business associate of the applicant has not had a license revoked within one year immediately preceding the date the license application is filed or does not have a license that is currently suspended;

(3) That neither the applicant nor any employee, agent, corporate officer, partner or business associate whose position in the alarm business gives him access to information in the installation and use of alarm systems for alarm users, has been convicted of the following:

a. Any felony involving moral turpitude within the previous five years;

b. Any misdemeanor involving moral turpitude within the previous two years;

c. Repeated or continual violation of any provision of this chapter within the previous two years.

(4) That the types of alarm systems, the instructions for the alarm systems and repair and maintenance services available through the applicant's alarm business are in compliance with this chapter.

The director may request the department to assist him in the investigation of a license application.

(d) If the director determines that a license application satisfies the requirements prescribed by this section, he shall issue a license; otherwise, he shall deny the license application.

(e) The director shall notify the applicant of the issuance of a license, or denial of the license application. In the case of a denial of a license application, the director shall notify the applicant by certified mail, and include in the notice the reason for the denial and a statement informing the applicant of his right to a hearing if requested by the applicant within ten days after receipt of the notice.

(f) A license shall expire on the 31st day of December next succeeding issuance thereof, except in the following instances:

(1) If an applicant timely applies for a license renewal in accordance with this section and the determination of the renewal request is delayed beyond the 31st of December, the licensee's license is extended, pending the determination of the renewal request by the director.

(2) If an applicant's license has been suspended or revoked.

(g) If an applicant is denied a license solely because an individual who is an employee, agent, corporate officer, partner or business associate of the applicant has been convicted of the offenses listed in subsection (c) (3), or had a license revoked within one year immediately preceding the date the license application is filed, or has a license that is currently suspended, then such applicant, upon disassociation with such individual may obtain a license upon reapplication.

Section 2A-6. Same — Fees. [Ord. No. 557, §1; Ord. No. 616, §1]

The annual fee for a license for an alarm business shall be fifty dollars.

The fee for issuing a duplicate license for one lost, destroyed or mutilated shall be ten dollars. These fees shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding the January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty-cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

Section 2A-7. Instructions on Operation. [Ord. No. 557, §1]

A licensee who sells, leases, installs, alters or replaces an alarm system shall furnish the alarm user with written instructions as to how the system operates.

Section 2A-8. Repair and Maintenance Service Required. [Ord. No. 557, §1]

A licensee shall make available repair and maintenance services, including emergency service during nonbusiness hours, to alarm users for whom the licensee has made installations. At the time of installation, the licensee shall furnish to the alarm user a repair service information card. This card shall inform the alarm user of the services available and include the telephone numbers to call for regular and emergency service.

Section 2A-9. License Nonassignable; Changes. [Ord. No. 557, §1]

(a) A license issued under this chapter shall not be assigned or transferred.

(b) A licensee shall notify the director within ten days of any of the following:

(1) Change of control and ownership or management of the alarm business;

(2) Change in address or a new address of the alarm business;

(3) Change of trade name of the alarm business;

(4) Names of new employees, agents, corporate officers, partners or business associates;

(5) Any change in the repair and maintenance services available by or through the licensee's alarm business.

Section 2A-10. Rules and Regulations. [Ord. No. 557, §1]

The director may establish, promulgate and enforce reasonable rules and regulations in order to administer and enforce the provisions of this chapter.

Section 2A-11. Suspensions; Revocations. [Ord. No. 557, §1]

(a) The director shall have the power to suspend a license for new installations, sales, leases or replacements of alarm systems for any one or more of the following reasons:

(1) Attempted assignment or transfer of a license as prohibited under section 2A-9;

(2) Failure to notify the director of any change as required under section 2A-9;

(3) Failure to comply with any reasonable rule or regulation of the director;

(4) Failure to provide proper instructions as required under section 2A-7;

(5) Failure to provide adequate repair and maintenance services as required by section 2A-8; or

(6) Installation or replacement of alarm systems not in accordance with sections 2A-15, 2A-16, and 2A-17;

(b) Suspension of a license may be for up to thirty days.

(c) A licensee is still licensed and is still required to provide repair and maintenance service during a suspension period, but no other alarm business shall be conducted.

(d) The director shall revoke a license for any one or more of the following reasons:

(1) Conviction of the licensee of any of the offenses listed in section 2A-5(c)(3), or the hiring of any person or the retention of any employee, agent, corporate officer, partner or business associate who is convicted for same and whose position in the alarm business gives him access to information in the installation and use of alarm systems for alarm users.

(2) Suspension of a license more than twice in any twelve month period.

(3) The making of any false statement as to a material matter or the omission of any material fact in any application for a license or any change in the information required under section 2A-9.

(e) After revocation of a license, a person may file a new application for a license pursuant to section 2A-5.

Section 2A-12. Power to Investigate. [Ord. No. 557, §1]

For the purpose of enforcing this chapter, the director shall have the power to make an investigation, and to the extent necessary for this purpose, he may examine a licensee or any other persons and shall have the power to compel the production of all relevant books, accounts, documents and other records.

Section 2A-13. Hearings on Charges; Decision. [Ord. No. 557, §1]

No license shall be suspended or revoked until a licensee has been afforded an opportunity for a hearing before the director.

The director shall provide notice to the licensee of the hearing at least ten days prior to the hearing. Notice shall be served either personally or by certified mail, and shall state the date and place of hearing and a summary of the charges against the licensee.

A licensee shall be heard in his defense either in person or by counsel and may produce witnesses to testify in his behalf. A record of the hearing shall be made. The director shall make a report of his findings and decision. For the purpose of this chapter, the director may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents relevant to the investigation.

Section 2A-14. False Alarm Service Charge. [Ord. No. 557, §1.; Ord. No. 1762 §1, 6-1-2004]

(a) All false alarms to which the department responds shall result in the following service charge to the alarm user:

(1) A warning for the first (1st) false alarm in any calendar year.

(2) A fifteen dollar ($15.00) service charge for the second (2nd) false alarm in any calendar year.

(3) A twenty-five dollar ($25.00) service charge for the third (3rd) and any subsequent false alarms in any calendar year.

(b) Upon determination by the department that a false alarm has occurred, the department shall send a notice to the alarm user notifying the alarm user of the determination and directing payment within thirty days of any service charge that may be due.

(c) The department shall cancel any notice or service charge upon satisfactory proof by the alarm user that a particular alarm falls within the exceptions enumerated in section 2A-3.

(d) Willful refusal to pay any such service charge within thirty days of notice shall constitute a violation of this chapter, but in any prosecution under section 2A-18 for violation of this provision, the city shall prove, in addition to the willful refusal to pay, that the service charge was properly imposed.

Section 2A-15. Automatic Dialing Device. [Ord. No. 557, §1]

No person shall install or use an automatic dialing device which is programmed to dial the department's telephone number.

Within ninety days from March 20, 1979, all automatic dialing devices programmed to dial the department's telephone number shall be reprogrammed to dial any other consenting person who may relay the emergency message to the department by live voice. The alarm user of such device shall be responsible for having his alarm system reprogrammed within the ninety day period of time.

Section 2A-16. Direct Signal Alarm System. [Ord. No. 557, §1]

All direct signal alarm systems which connect to the department are prohibited, except for federal institutions which are required to have such an alarm system under federal law.

Any federal institution which is permitted to have a direct signal alarm system shall be required to pay all costs for the installation, maintenance and repair of the alarm system and shall be subject to the provisions of section 2A-14.

Section 2A-17. Audible Alarm. [Ord. No. 557, §1]

An "audible alarm" is an alarm equipped with an exterior sound- producing device such as a gong, buzzer, siren, bell or horn.

No person shall install or use an audible alarm without a thirty minute timer.

Within ninety days from March 20, 1979, any alarm user already having an audible alarm shall be responsible for equipping it with a thirty minute timer.

Section 2A-18. Violations and Penalties. [Ord. No. 557, §1]

Any person who violates or causes a violation of any provision of this chapter shall be punishable, upon conviction, in accordance with section 1-7 of this Code, and each day such violation continues shall be deemed a separate offense. Any charge brought under this section shall be brought by the city in, at its option, the associate circuit court of the city or the circuit court of the county.

The municipal prosecutor may bring an action in the name of the municipality, to restrain or prevent a violation of any provision of this chapter or any continuance of any such violation.

Chapter 3

ALCOHOLIC BEVERAGES

ARTICLE I
In General

Section 3-1. Sale or Consumption in Certain Places. [Ord. No. 243, §39.; Ord. No. 1495 §1, 11-21-2000]

(a) No person shall sell or consume, either in a vehicle or otherwise, any intoxicating liquors or nonintoxicating beer upon any public street, highway or thoroughfare, sidewalk or alley, except for special events which receive City authority.

(b) No person shall sell or consume any intoxicating liquors or nonintoxicating beer outdoors within fifteen (15) feet of a public street, highway or thoroughfare, sidewalk or alley unless same is sold or consumed at a location properly authorized under Outdoor Eating Place/Beer Garden regulations set forth in Chapter 3, Article IV, except for special events which receive City authority.

Section 3-1.1. Temporary Caterer's Permit. [Ord. No. 1004 §§1 — 4, 10-1-1991; Ord. No. 1544 §1, 8-7-2001]

(a) The City Clerk is hereby authorized to issue a temporary permit to caterers, and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises, pursuant to the provisions of this Chapter, who furnish provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises, but not including a "festival" as described in RSMo. Chapter 316.

(b) Such temporary caterer's permit shall be effective for a period not to exceed one hundred twenty (120) consecutive hours, and shall authorize the service of alcoholic beverages at such function, occasion or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption in the incorporated City where such function, occasion or event is held.

(c) For every permit issued pursuant to the provisions of this Section, the permittee shall pay to the City Clerk the sum of fifteen dollars ($15.00) for each calendar day, or fraction thereof, for which the permit is issued.

(d) All provisions of the liquor control law and the ordinances, rules and regulations of the incorporated City in which is located the premises in which such function, occasion or event is held, shall extend to such premises and shall be in force and

enforceable during all the time that the permittee, its agents, servants, employees, or stock are in such premises.

(e) Except for Missouri-produced wines in the original package, this Section shall not include the sale of packaged goods covered by this temporary permit.

ARTICLE II
Nonintoxicating Beer

Division 1
Generally

Section 3-2. Definitions. [Ord. No. 17, §7.]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section.

INTOXICATING LIQUOR — Alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented malt or other liquors or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes containing in excess of three and two-tenths percent of alcohol by weight.

NONINTOXICATING BEER — Any beer manufactured from pure hops, or pure abstract of hops, and pure barley, malt and 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 one-half of one percent by volume, and not exceeding three and two-tenths percent by weight.

ORIGINAL PACKAGE — Any package containing three, six, twelve, or twenty four small standard beer bottles, and any package containing three, six or twelve large standard beer bottles, when such bottles contain nonintoxicating beer, as defined by this section.

PREMISES — The entire building in which the licensee hereunder has his place of business, and any additional building used in connection therewith, and the entire lot, or parcels of land on which the buildings are situated, or which is used in connection with the building.

TRANSPORTATION COMPANY — Any individual or incorporated or unincorporated company engaged in the business of transportation for hire of goods and merchandise by use or means of any vessel, railroad car, motor vehicle, airplane or other means of conveyance whatsoever, to whom or to which any of the provisions of this article apply or may apply.

Section 3-3. Keeping Intoxicating Liquor on Licensed Premises Prohibited; Sale of Intoxicating Liquor to Nonintoxicating Beer Licensee Prohibited. [Ord. No. 17, §8.]

No person holding a license issued pursuant to the provisions of this article to sell nonintoxicating beer at retail, either in the original package or for consumption on the premises, shall have or keep, or secrete, on or about the premises described and covered by such license, any intoxicating liquor of any kind or character; nor shall any

manufacturer or wholesale distributor sell any intoxicating liquor of any character containing alcohol in excess of three and two-tenths percent by weight to any person holding a license issued pursuant to the provisions of this article to sell nonintoxicating beer only, either in the original package or to be consumed upon the premises where sold.

Section 3-4. Sales to be from Labeled Kegs, Bottles, Etc. [Ord. No. 17, §9.]

It shall be unlawful for any person to sell or offer for sale in the City any nonintoxicating beer unless the same is sold or offered for sale in the original bottle or in the original package containing bottles bearing the original label and full name of the brewer or manufacturer thereof, both upon the label, upon the bottle and upon the cap or cork of such bottle, or, in the case of the sale of nonintoxicating beer on draft, unless the same is to be drawn from the original keg or barrel having stamped on the ends thereof the full name of the manufacturer or brewer of the nonintoxicating beer contained therein.

Section 3-5. Monthly Reports of Manufacturers and Wholesalers. [Ord. No. 17, §10.]

It shall be the duty of each holder of a license authorizing the manufacture and sale, or sale, at wholesale, of nonintoxicating beer on or before the fifth day of each calendar month, to file in the office of the City Collector a sworn statement showing the amount of nonintoxicating beer manufactured and sold, or sold, and to whom sold, during the next preceding calendar month.

Section 3-6. Duplicate Bills of Lading to be Furnished City Collector. [Ord. No. 17, §11.]

Every railroad company, express company, airline, motor transportation or other transportation company, and every person who shall transport any nonintoxicating beer into the City and deliver the same to any person therein, shall, when requested, furnish the City Collector a duplicate bill of lading or receipt for such nonintoxicating beer, showing the name of the consignor and consignee, date, place received and quantity of nonintoxicating beer.

Section 3-7. Consumption, Etc., on Premises Licensed for Package Sales Prohibited. [Ord. No. 17, §13.]

It shall be unlawful for any person authorized to sell nonintoxicating beer in the original package to allow such original package to be broken, or to allow any of such nonintoxicating beer to be consumed, in or upon the premises where sold.

Section 3-8. Duty of Licensee to Prevent Customer from Increasing Alcoholic Content. [Ord. No. 17, §14.]

It shall be the duty of every holder of a license to manufacture and sell, or to sell, nonintoxicating beer to use every precaution to prevent any person on the premises described in such license from pouring into, mixing with or adding to, such nonintoxicating beer any alcohol, or other liquid, or any alcohol cube or other ingredient that will increase, or tend to increase, the alcoholic content of such nonintoxicating beer.

Section 3-9. Manufacturers not to be Interested in Retail Sales. [Ord. No. 17, §15.]

Brewers or manufacturers of nonintoxicating beer, or the employees, officers, agents, subsidiaries or affiliates thereof, shall not, under any circumstances, directly or indirectly, have any financial interest in the retail business for the sale of such nonintoxicating beer, nor shall they, directly or indirectly, loan, give away or furnish equipment, money, credit or property of any kind, except ordinary commercial credit, for such nonintoxicating beer sold to such retailers. All contracts entered into between such brewers or manufacturers, or their officers or employees, directors or agents, in any way concerning any of their products, obligating any retail dealer or dealers to buy or sell only the products of any such brewer or manufacturer, or obligating any such retail dealer to buy or sell the major part of such products required by such retail dealer from any such brewer or manufacturer, shall be void, and proof of the execution of such contract shall be grounds for revoking the license of both the vendor and the vendee.

Section 3-10. Possession of Beer Purchased from Unlicensed Person Prohibited. [Ord. No. 17, §16.]

No person shall possess nonintoxicating beer within the City unless the same has been acquired from some person duly authorized to sell the same, and the package in which such nonintoxicating beer is contained and from which it is taken for consumption has, while containing such nonintoxicating beer, been labeled and sealed as provided by this article.

Section 3-11. Bottles, Kegs, Etc., to be Labeled by Manufacturer or Wholesaler. [Ord. No. 17, §18.]

It shall be the duty of every manufacturer or brewer manufacturing or brewing nonintoxicating beer in the City, and of every manufacturer or brewer, distributor or wholesaler outside of the City shipping any nonintoxicating beer into the City for sale at wholesale or retail, to cause every bottle, barrel, keg and other container to such nonintoxicating beer to have on the label thereon, in plain letters and figures, "Alcoholic content not in excess of 3.2% by weight," or "Alcoholic content not in excess of 4% by volume." Any beer not so labeled shall be deemed to have an alcoholic content in excess of three and two-tenths percent by weight, and the sale thereof in the City shall be subject to all the regulations and penalties provided by this article for the sale of beer having an alcoholic content in excess of three and two-tenths percent by weight.

Section 3-12. Hours of Sale. [Ord. No. 17, §19.]

No person having a license under this article shall sell, give away or otherwise dispose of or suffer the same to be done on his premises, any nonintoxicating beer in any quantity between the hours of 1:30 A.M. and 6:00 A.M.

Section 3-13. Sales to Certain Persons Restricted. [Ord. No. 17, §20.]

No person or his employee shall sell or supply nonintoxicating beer or permit same to be sold or supplied to a habitual drunkard or to any person who is under or apparently under the influence of alcoholic beverages. Nonintoxicating beer shall not be given, sold or

otherwise supplied to any person under the age of twenty-one years, but this shall not apply to the supplying of nonintoxicating beer to a person under such age for medicinal purposes only, or by the parent or guardian of such person or to the administering of the nonintoxicating beer to such person by a physician.

Section 3-14. Restrictions on Type of Premises for Retail Sale by the Drink. [Ord. No. 17 §21.]

Every person obtaining a license under this article to sell nonintoxicating beer by the drink at retail, to be consumed at the place where sold, except hotels, clubs and restaurants, shall conduct such business in a single room located on the ground floor immediately abutting on the public street, and no such place shall be equipped with blinds, screens, swinging doors or any other thing in such room that will obstruct or obscure the interior of such room from public view from the street; provided, that the licensee may maintain, in connection with and adjoining the room in which nonintoxicating beer is sold at retail by the drink, an open air space, commonly called a summer garden, for serving such nonintoxicating beer whenever one boundary, at least, of such open air space is a public street or highway; and provided further, that such open air space shall be so fenced and equipped as to permit an unobstructed view of the whole of such open air space from the public street or highway.

Section 3-15. Gambling Devices and Concealing of Tables Prohibited. [Ord. No. 17, §22.]

No place wherein nonintoxicating beer is sold at retail by the drink shall have any gambling or gaming device whatsoever, and no place where nonintoxicating beer is sold therein at retail shall have therein any tables concealed or enclosed in private rooms or by partitions or rooms.

Section 3-16. Employment of Persons Under Sixteen. [Ord. No. 17, §22.]

Any person holding a license to sell nonintoxicating beer by the drink at retail who shall suffer or permit any child under the age of sixteen years to be employed or work in, or in connection with, any entertainment or cabaret conducted in any place wherein nonintoxicating beer is sold by the drink at retail shall thereby suffer the revocation of his license to sell nonintoxicating beer by the drink at retail.

Section 3-17. Enforcement of Article. [Ord. No. 17, §25.]

It shall be the duty of the police of the City to see that the provisions of this article are obeyed, and it shall be their duty to report to the chief of police, the names of the persons and their addresses, of all places where nonintoxicating beer is sold at retail, where such places are not kept in an orderly manner and the same shall, by the chief of police, be transmitted to the Board of Aldermen.

Division 2
License

Section 3-18. Required Generally. [Ord. No. 17, §2.]

It shall be unlawful for any person to manufacture or brew or sell, either at wholesale or at retail, in the original package, or by the drink to be consumed on the premises where sold, except as otherwise provided, without having first applied for, and obtained, a license as required in this article, authorizing such brewing, manufacture and sale, or sale, thereof.

Section 3-19. Fees — Schedule. [Ord. No. 17, §5; Ord. No. 346, §1.]

Annual fees for licenses authorized by this article, pursuant to authority granted under section 311.220, the Revised Statutes of Missouri, 1969, shall at all times be one and one-half times the amount required by law to be paid into the state treasury for such state permit or license as of the date of application therefor. The schedule of fees currently in effect shall be as follows:

(a) For a permit authorizing the manufacture or brewing of nonintoxicating beer brewed or manufactured in the City, three hundred seventy-five dollars.

(b) For a license authorizing the sale in the City by any distributor or wholesaler other than the manufacturer or brewer thereof, seventy-five dollars.

(c) For a license authorizing the sale at retail for consumption on the premises where sold, thirty-seven dollars and fifty cents.

(d) For a license authorizing the sale by grocers and other merchants and dealers for sale in the original package direct to the consumer, but not for resale, and not to be consumed on the premises where sold, twenty-two dollars and fifty cents.

Section 3-20. Same — to be in Addition to Other Fees and ad Valorem Taxes. [Ord. No. 17, §30.]

The fees to be charged under this article shall be taken in lieu of the proportionate part of any merchant's license fee and ad valorem tax for stock and sales of nonintoxicating beer under other provisions of this Code. The value of stocks of nonintoxicating beer, and the aggregate amount of sales thereof made by any licensee shall not be returned by such merchant for purposes of merchant's license or ad valorem tax, nor shall such stock or sales be included in the computation of any merchant's license or ad valorem tax.

Section 3-21. Same — When Due and Payable; Proration. [Ord. No. 17, §31.]

The annual fees payable under this article shall be due and payable in advance on the first day of August; provided, that licensees who shall commence business after August 1st for any year shall apply for and be granted license for part of a year to the August 1st following, and shall pay therefor one-twelfth of the annual fee for every month or part thereof from date of issuance to August 1st thereafter.

Section 3-22. Issuance; License not Required for Sales by Intoxicating Liquor Licensee. [Ord. No. 17, §3.]

All licenses issued pursuant to the provisions of this division shall be issued by the City Collector, but no license shall be issued by the City Collector except with the approval of

the Board of Aldermen given at a regular or special meeting of the board, and no license for which license fees are fixed in this division shall be issued, except upon the payment of the license fee prescribed in this division; provided, that any person holding a license to sell intoxicating liquors at retail, either in the original package or by the drink to be consumed on the premises where sold, pursuant to the provisions of this chapter regulating the sale of such intoxicating liquors, may sell on the premises described in such license nonintoxicating beer without obtaining the license required by this article.

Section 3-23. Issuance Prohibited for Premises Used for Immoral Purposes. [Ord. No. 17, §23.]

No license shall be granted for the sale of nonintoxicating beer at retail by the drink for consumption at the place where sold in a building occupied or used for an immoral or unlawful purpose, nor in any room or portion of a building connected by any entrance or exit, or other means of communication, with any room or place used for an immoral or unlawful purpose.

Section 3-24. Separate License Required for each Place of Business. [Ord. No. 17, §4.]

A separate license shall be issued for each place of business, and no person, nor the agent or employee of any person in any capacity, shall sell nonintoxicating beer in any other place than that designated in the license.

Section 3-25. Construction of Licenses. [Ord. No. 17, §§6,12.]

A license to brew or manufacture nonintoxicating beer in the City shall be construed to authorize the sale by the holder of such license of such nonintoxicating beer to distributors or wholesalers for resale to retailers only, or direct to retailers. A license authorizing any distributor or wholesaler to sell nonintoxicating beer in the City shall be construed to authorize the sale thereof only to persons authorized to sell nonintoxicating beer to consumers not for resale; but no such license, either to manufacture, brew or sell at wholesale shall be construed to authorize the sale by the holder of any such license of nonintoxicating beer direct to consumers.

Any license issued under the provisions of this article authorizing the sale of nonintoxicating beer at retail for consumption on the premises described in such license shall be construed to authorize the sale of such nonintoxicating beer by the bottle, by the glass, on draft and in the original package.

Section 3-26. Nontransferable. [Ord. No. 17, §17.]

No license issued under this article shall be transferable or assignable.

Section 3-27. Sales Only Authorized at Place Described in License; Posting. [Ord. No. 17, §24.]

All licenses issued pursuant to the provisions of this article shall authorize the sale of nonintoxicating beer only at the place described in such license, and all such licenses shall be kept conspicuously posted in the place for which the license was issued.

Section 3-28. Revocation or Suspension. [Ord. No. 17, §§27 to 29.]

Any person holding a license issued pursuant to the provisions of this article and who violates any of the terms of this article, shall, in addition to the other penalties provided for in this Code, and in the discretion of the Board of Aldermen, suffer the revocation of the license, or the suspension of such license for not exceeding ten days. Whenever any license issued pursuant to the provisions of this article shall be revoked because of any violation of the provisions of this article no other or additional license shall be issued to the same person on any other premises for a period of one year from the date of the revocation of the license.

Whenever it shall be shown, or whenever the chief of police has knowledge, that a person licensed under this article has not at all times kept an orderly place or house, or has violated any of the provisions of this article, the chief of police shall report the same to the Board of Aldermen, who shall revoke, or in its discretion suspend, the license of such person.

Before revoking or suspending any license granted under this article, the Board of Aldermen shall give the licensee at least ten days' written notice of any complaint or charge against him, and the nature of such complaint or charge, and shall fix the date for the hearing on the complaint or charge, upon which hearing the licensee shall have the right to have counsel, and to produce witnesses in his behalf. If the Board of Aldermen shall, after such hearing, revoke or suspend the license of such licensee, its decision and action shall be final.

Section 3-28.1. (Reserved) [1]

ARTICLE III
Intoxicating Liquors

Division 1
Generally

Section 3-29. Definitions. [Ord. No. 16, §§1,28; Ord. No. 60, §3; Ord. No. 346, §2; Ord. No. 651, §1; Ord. No. 705, §1; Ord. No. 2235 §1, 8-7-2012]

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

AMUSEMENT PLACE — Any establishment whose business building contains a square footage of at least ten thousand square feet, and where games of skill commonly known as bowling are usually played, and which has annual gross receipts of at least two hundred thousand dollars, of which no more than fifty percent may be derived from the sale of alcoholic beverages.

CLOSED PLACE — A place where all doors are locked and where no patrons are in the place or about the premises.

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[1]. **Editor's Note — Ord. no. 1980 §1, adopted June 19, 2007, repealed section 3-28.1 "special limited issuance" in its entirety. Former section 3-28.1 derived from ord. no. 385 §1; ord. no. 616 §1.**

INTOXICATING LIQUOR — Alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors, or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes, containing in excess of three and two-tenths percent of alcohol by weight.

PREMISES — That portion of any building in which a licensee under this article has his place of business and any additional building or portion thereof used in connection therewith, and the entire lot or parcel of land on which the buildings are situated, or which is used in connection with the buildings.

RESTAURANT — Any place of business, the main purpose and activity of which is to serve meals, sandwiches, short orders and other food to be eaten by its customers on the premises, and which does not provide or furnish to the public lodging or sleeping rooms.

RESTAURANT-BAR — Any establishment having a restaurant or similar facility on the premises, at least fifty percent (50%) of the gross income of which is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least two hundred thousand dollars ($200,000.00) from the sale of prepared meals or food consumed on such premises.

SALE BY DRINK — The sale of intoxicating liquor by the drink at retail for consumption on the premises where sold. The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than one-half pint shall be deemed "sale by the drink" and may be made only by a holder of a retail liquor dealer's license as hereinafter provided, and when such sale is so made, the container in every instance shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

WHOLESALER — A person who exposes for sale or makes one or more sales for resale of intoxicating liquor within the City, or who conducts a business of exposing for sale or selling intoxicating liquor for resale from an established place of business within the City.

Section 3-30. Time Fixed for Opening and Closing Premises — Closed Place Defined — Penalty. [Ord. No. 884, §1]

(a) No person having a license under this law, nor any employee of such person, except as provided in subsection (b) of this section, shall sell, give away or otherwise dispose of, or suffer the same to be done upon or about his premises, 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. If the person has a license to sell intoxicating liquor by the drink, his premises shall be and remain a closed place as defined in this section 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. Where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs or hotels, this section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants whose business is conducted in one room only and substantial quantities of food and merchandise other than intoxicating liquors are dispensed, then the licensee shall keep securely locked during the hours and on the days specified in

this section all refrigerators, cabinets, cases, boxes, and taps from which intoxicating liquor is dispensed. A "closed place" is defined to mean a place where all doors are locked and where no patrons are in the place or about the premises. Any person violating any provision of this section shall be deemed guilty of a class A misdemeanor. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of section 311.180 of the Revised Statutes of the State of Missouri, which section is incorporated herein by reference, to a person licensed to sell the intoxicating liquor at retail.

(b) Any person licensed pursuant to section 311.200 shall not be permitted to sell, give away, or otherwise dispose of, or suffer the same to be done upon or about his premises, 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.

Section 3-31. Applicability of Article to Druggist. [Ord. No. 16 §4.]

This article shall not apply to the possession by a druggist of intoxicating liquor purchased by him from a licensed vendor under the Liquor Control Act of the state, or intoxicating liquor lawfully acquired and transported into the state by him pursuant to such act, such liquor to be used in connection with the business of a druggist in compounding medicines or as a solvent or preservative, nor shall this article apply to the sale of intoxicating liquors by druggists on prescription from a regularly licensed physician.

Section 3-32. Restrictions on Type of Sales Premises. [Ord. No. 16, §9.]

Except in hotels, clubs and restaurants, it shall be unlawful for any licensee to sell intoxicating liquors in a place, building or room where there are blinds, screens, swinging doors, curtains or any other thing in such building or room that will obstruct or obscure the interior of such room from public view from the street, or in any room not located on the ground floor or level immediately abutting on a public street.

Section 3-33. Keeping of Liquor by Malt Liquor Licensee Prohibited. [Ord. No. 16, §15]

It shall be unlawful for any person holding a malt liquor license or the same time holding a retail liquor dealer's license covering the premises described in the malt liquor dealer's license or permit to have or keep in or on such premises any intoxicating liquor of any kind or character, other than malt liquor brewed or manufactured by the method, in the manner and of the ingredients required by the laws of the state; or to sell, or offer for sale, in or upon such premises, any intoxicating liquor other than malt liquors.

Section 3-34. Selling, Vending and Supplying Intoxicating Liquors to Minors or Intoxicating Persons Prohibited. [Ord. No. 1865 §1, 10-18-2005[2]]

(a) Any licensee under this Section or his employee or any other person, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) years or to any person intoxicated or appearing to be in a state of intoxication or to a habitual drunkard and any person whomsoever, except his parent or guardian, who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one (21) years or to any intoxicated person or any person appearing to be in a state of intoxication or to a habitual drunkard shall be deemed guilty of a misdemeanor, except that this Section shall not apply to the supplying of intoxicating liquor to a person under the age of twenty-one (21) years for medical purposes only or to the administering of such intoxicating liquor to any person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this Chapter solely due to a conviction for unlawful sale or supply to a minor when serving in the capacity as an employee of a licensed establishment.

(b) It shall be unlawful for any owner, occupant or other person or legal entity with a lawful right to the use and enjoyment of any property, except for a parent or guardian, who knowingly allows any person under the age of twenty-one (21) years to consume intoxicating liquor on such property or knowingly fails to stop any person under the age of twenty-one (21) years from consuming intoxicating liquor on such property.

(c) It shall be a defense to prosecution under this Section if:

(1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit or an employee thereof;

(2) The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one (21) or more years of age; and

(3) To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri non-driver's identification card or other official or apparently official document containing a photograph of the minor and purporting to establish that such minor was twenty-one (21) years of age and of the legal age for consumption of intoxicating liquor.

Section 3-34.1. Purchase, Possession or Consumption by Minor is Prohibited. [Ord. No. 382, §1.; Ord. No. 1865 §2, 10-18-2005; Ord. No. 2098 §§1 — 2, 9-1-2009]

(a) It shall be unlawful for any person under the age of twenty-one (21) years to purchase or attempt to purchase or have in his or her possession any intoxicating liquor as defined in Section 311.020, RSMo., or who is visibly intoxicated as defined in Section 577.001, RSMo., or has a detectable blood alcohol content of more than two-hundredths of one percent (.02%) or more by weight of alcohol in

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2. **Editor's Note — Ord. no. 1865 §1, adopted October 18, 2005, repealed section 3-34 "consumption by minor" and enacted new provisions set out herein. Former section 3-34 derived from ord. no. 16 §16.**

such person's blood. 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 twenty-one (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. Visibly intoxicated includes when a person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

(b) For purposes of determining violations of any provision of this Section or of any rule or regulation of the supervisor of alcohol and tobacco control, 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.

(c) *Open house parties — allowing minors to drink.* 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 twenty-one (21) to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one (21) from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one (21) to drink or possess intoxicating liquor is his or her parent or guardian, is deemed to be in violation of the Eureka Municipal Code.

(c) It shall be a defense to prosecution under this subsection if:

(i) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit or an employee thereof;

(ii) The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one (21) or more years of age; and

(iii) To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri non-driver's identification card or other official or apparently official document containing a photograph of the minor and purporting to establish that such minor was twenty-one (21) years of age and of the legal age for consumption of intoxicating liquor.

Section 3-34.2. Expungement of Record. [Ord. No. 1865 §3, 10-18-2005]

After a period of not less than one (1) year or upon reaching the age of twenty-one (21), whichever occurs first, a person who has pleaded guilty to or has been found guilty of violating Section 3-34.1 for the first (1st) time and who since such conviction has not

been convicted of any other alcohol-related offense may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such person has not been convicted of any other alcohol-related offense at the time of the application for expungement and the person has had no other alcohol-related enforcement contacts as defined in this Chapter, the court shall enter an order of expungement. The effect of such an order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever. A person shall be entitled to only one (1) expungement pursuant to this Section. Nothing contained in this Section shall prevent courts from maintaining such records as are necessary to ensure that an individual receives only one (1) expungement pursuant to this Section.

Section 3-34.3. Use of Minors in Enforcement. [Ord. No. 1865 §4, 10-18-2005]

(a) The supervisor of alcohol and tobacco control shall not use minors to enforce the laws of this Chapter or Chapter 312, RSMo., unless the supervisor promulgates rules and regulations that establish standards for the use of minors. The standards shall include those in Subsection (b) of this Section.

(b) The supervisor shall establish, by July 1, 2006, permissive standards for the use of minors in investigations by any State, County, municipal or other local law enforcement authority and which shall, at a minimum, provide for the following:

(1) The minor shall be eighteen (18) or nineteen (19) years of age;

(2) The minor shall have a youthful appearance and the minor, if a male, shall not have facial hair or a receding hairline;

(3) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the intoxicating liquor or nonintoxicating beer at the licensed establishment;

(4) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a sale of intoxicating liquor or nonintoxicating beer.

(c) The supervisor of alcohol and tobacco control shall not participate with any State, County, municipal or other local law enforcement agency, nor discipline any licensed establishment when any State, County, municipal or other law enforcement agency chooses not to follow the supervisor's permissive standards.

(d) Any minors used in investigations under this Section shall be exempt from any violations under Chapter 311 and Chapter 312, RSMo., during the time they are

under direct control of the State, County, municipal or other law enforcement authorities.

Section 3-35. Presence of Person Under Twenty-One on Licensed Premises Prohibited. [Ord. No. 16 §17; Ord. No. 346, §4; Ord. No. 406, §1.]

It shall be unlawful for any minor under the age of twenty-one years to be and remain or to loiter in any tavern or place of business where intoxicating liquors are sold at retail by the drink for consumption on the premises, unless accompanied by the parent or legal guardian of such minor, and it shall be unlawful for any person licensed to sell intoxicating liquors at retail by the drink for consumption on the premises, or his employee, to allow any minor under the age of twenty-one years, unless accompanied by the parent or legal guardian of such minor, to be and remain or to loiter in the tavern or place of business of such person so licensed. Each such licensee shall keep at all times conspicuously posted in such tavern or place of business a printed sign displaying in black letters not less than one inch wide on a white background the words "Notice — Minors under the age of twenty-one years are not allowed here unless accompanied by parent or legal guardian." The maintenance of such sign, however, shall not excuse any licensee from a violation of this section.

Nothing herein contained shall be construed as prohibiting the presence of an unaccompanied minor in those areas of a place of business where intoxicating liquors are sold which are used primarily for other purposes, and where the sale and dispensing of intoxicating liquors is incidental to the primary purpose, as in a restaurant, bowling alley, theater, motel or the like as differentiated from cocktail lounges, taverns and bars, or areas within a place of business set aside for the primary purpose of selling intoxicating liquors, such as a cocktail room, a tavern or a pub.

No person holding a license to sell intoxicating liquor by the drink at retail shall suffer or permit any child under the age of sixteen years to be employed or work in or in connection with any entertainment or cabaret conducted in any place where intoxicating liquor is sold by the drink at retail.

Section 3-36. Sale to Certain Persons Restricted; Sales by Person Under Twenty-One Prohibited. [Ord. No. 16, §18.]

It shall be unlawful for any person or his employee to sell or supply intoxicating liquor or permit the same to be sold or supplied to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor. Intoxicating liquor shall not be given, sold or otherwise supplied to any person under the age of twenty-one years, but this shall not apply to supplying intoxicating liquor to a person under said age for medicinal purposes only, or by the parent or guardian of such person or by a physician. No person under the age of twenty-one years shall sell or assist in the sale or dispensing of intoxicating liquors.

Section 3-37. Limitation on Size of Package Sale. [Ord. No. 16, §20.]

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

Section 3-38. Window Displays Prohibited. [Ord. No. 16, §21.]

It shall be unlawful to display in any street window or show window any intoxicating liquor, or any package, bottle or container bearing the label or brand of any intoxicating liquor.

Section 3-39. Sales by Wholesaler, Etc., to Unlicensed Retailer Prohibited. [Ord. No. 16, §32.]

It shall be unlawful for any manufacturer, distiller, brewer or wholesale dealer in intoxicating liquor, either directly or indirectly, to sell or deliver intoxicating liquor of any kind to any person in the City not licensed under the provisions of this article to sell intoxicating liquors at retail.

Section 3-40. Enforcement of Article. [Ord. No. 16, §5.]

It shall be the duty of the police of the City to see that the provisions of this article and of other ordinances of the City in regard to the sale of intoxicating liquor are obeyed, and to report to the chief of police any place where intoxicating liquor is sold at retail which is not kept in an orderly manner or in violation of any of the provisions of this article, or any person selling intoxicating liquor in the City without a license. It shall be the duty of the chief of police to report all such infractions immediately to the Board of Aldermen.

Division 2
Licenses

Section 3-41. Required for Retail Sales Generally; Classes of Licenses. [Ord. No. 16, §2; Ord. No. 346, §5; Ord. No. 651, §1; Ord. No. 705, §3.; Ord. No. 1061 §1, 6-15-1993; Ord. No. 1130 §1, 10-4-1994; Ord. No. 1719 §1, 9-16-2003; Ord. No. 1836 §§1-3, 7-5-2005]

It shall be unlawful for any person to sell or expose for sale in this City intoxicating liquor in any quantity without taking out a license from the City. A separate license shall be taken out for each of the following classes of sales of intoxicating liquors in which the licensee desires to engage:

(a) Sales of all kinds of intoxicating liquors in the original package not to be consumed on the premises where sold.

(b) Sales of malt liquor containing alcohol in excess of three and two-tenths percent by weight and not in excess of five percent by weight by grocers and other merchants and dealers for sale in the original package direct to consumers but not for resale and not for consumption on the premises where sold.

(c) Sales of malt liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight at retail by the drink for consumption on the premises where sold.

(d) Sales of malt liquor containing alcohol in excess of three and two-tenths percent by weight and not in excess of five percent by weight, manufactured from pure hops or pure extract of hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water, or light wines containing not in excess of fourteen percent of alcohol by weight exclusively from grapes, berries and other fruits and vegetables, or both such malt liquor and wine at retail by the drink for consumption on the premises where sold, which license shall also permit the holder to sell nonintoxicating beer, as defined in state law.

(e) Sale of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold, including the sale of intoxicating liquors in the original package.

(f) Except as otherwise provided herein, it shall be unlawful for any person to sell or expose for sale any intoxicating liquor by the drink within the City limits without first having obtained from the City a license therefor.

(f) It shall also be unlawful for any person to sell or expose for sale any intoxicating liquor at retail by the drink after 1:30 A.M. on Sunday without first having obtained from the City a license therefor.

(g) *Sunday sales license.*

(1) For sales of intoxicating liquor in the original package at retail between the hours of 9:00 A.M. and Midnight on Sundays.

(2) Sales of malt liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight, manufactured from pure hops or pure extract of hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water or light wines containing not in excess of fourteen percent (14%) of alcohol by weight exclusively from grapes, berries and other fruits and vegetables or both such malt liquor and wine at retail by the drink for consumption on the premises where sold, which license shall also permit the holder to sell non-intoxicating beer, as defined in State law, between the hours of 9:00 A.M. and Midnight on Sundays.

(h) Applications for licenses to sell intoxicating liquor at retail by the drink on Sundays from 9:00 A.M. to Midnight shall be filed with the City Collector on forms furnished by him. Each application shall be signed by the applicant. If the applicant is a joint venture, partnership or group other than a corporation, the application shall be made by all individuals who are members of such joint venture, partnership or group. If the applicant is a corporation, the application shall be made by a managing officer of the corporation. A corporate applicant shall state the names and addresses of its registered agents, officers and directors, the number of shares in the corporation owned by each and the percentage those shares bear to the total

outstanding shares of the corporation; the names and addresses of the ten (10) principal stockholders of the corporation, the number of shares in the corporation owned by each and the percentage those shares bear to the total outstanding shares of the corporation; and the names and addresses of each stockholder owning one percent (1%) or more of the total outstanding shares of the corporation. The signature of the applicant shall constitute an agreement that the applicant will assume responsibility for compliance with the provisions of this Code and the laws of the State regulating the sale of intoxicating liquor by the drink. Each license shall apply to the class for which issued, and it shall be unlawful to sell or expose for sale any intoxicating liquor except in the manner authorized in the license held by the licensee. [Ord. No. 2243 §1, 9-18-2012]

Section 3-42. Qualifications of Licensee. [Ord. No. 16, §3.]

No person shall be granted a license under this article unless such person is of good moral character and a qualified legal voter and taxpaying citizen of the state. No person shall be granted a license or permit whose license as such dealer has been revoked, or who has been convicted, since the ratification of the twenty-first amendment to the Constitution of the United States, of the violations of the provisions of any law applicable to the manufacture or sale of intoxicating liquor, or who employs or has employed in his business, as such dealer, any person whose license has been revoked or who has been convicted of violating the provisions of any such law since the date aforesaid.

Section 3-43. Application. [Ord. No. 16, §6; Ord. No. 346, §6; Ord. No. 497 §1; Ord. No. 651 §1; Ord. No. 696, §1; Ord. No. 705, §4.; Ord. No. 2235 §§2-6, 8-7-2012]

(a) Applications for licenses to sell intoxicating liquors under the provisions of this article shall be filed with the City Collector and shall be on forms to be furnished by the collector and signed and sworn to by the applicant.

(b) Each application for a license to sell intoxicating liquor shall contain the following information which may be required, as provided for herein:

(1) The exact location and description of the premises to be covered by the license.

(2) The kind of business which the applicant proposes to conduct on such premises in addition to the sale of intoxicating liquor, and the hours which the applicant plans to keep his place open for such other business.

(3) Whether or not the applicant has ever been arrested for, charged with, indicted for or convicted of a violation of any federal law, law of the state of any other state or City or county ordinance involving moral turpitude or any violation of law regulating control or prohibiting the sale of intoxicating liquor.

(c) The City Collector is authorized at any time before or after the issuance of a license to sell intoxicating liquor to require such additional information necessary to carry out the intent and purposes of this chapter.[3]

Section 3-44. Renewal. [Ord. No. 16, §6.]

Any license for the sale of all kinds of intoxicating liquors by the drink for consumption on the premises, may be renewed from year to year, unless a majority of the assessed taxpaying citizens owning property or occupying or doing business on the ground floor of buildings within three hundred feet of the applicant's place of business shall file a written protest against the renewal or further renewal of the license.

Section 3-45. Issuance. [Ord. No. 16, §7.]

Upon the filing of an application for a license under this article, the application shall be presented to the Board of Aldermen at its next regular or special meeting; and, upon approval of the application by a majority of the board, and upon payment of the license tax provided for in this division, the City Collector shall issue a license to the applicant to conduct business in the City until July 31st following its issuance.

Section 3-46. Separate License for Each Place of Business — Contents. [Ord. No. 16, §8.]

A separate license shall be required for each place of business. Every license issued under the provisions of this article shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.

Section 3-47. Retail Sales by the Drink Generally. [Ord. No. 16, §10; Ord. No. 346, §7; Ord. No. 1022 §1, 5-5-1992]

No license shall be issued for the sale of intoxicating liquors, containing alcohol in excess of five percent by weight, by the drink at retail for consumption on the premises where the place of such sales is within one hundred (100) feet of any school, church, or other building regularly used as a place of religious worship, or public playground.

No person, while on premises licensed for the sale of alcoholic beverages by the drink, shall solicit, induce, entice or encourage in any manner any person, not previously known to or acquainted with him to purchase for himself or others any alcoholic or nonalcoholic beverage, drink, merchandise or other thing of value.

Section 3-48. Retail Sales of Malt Liquor and Wine — Fees. [Ord. No. 16, §11; Ord. No. 346, §8; Ord. No. 651, §1; Ord. No. 1022 §2; 5-5-1992; Ord. No. 1836 §4, 7-5-2005]

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[3]. **Editor's Note: Former Subsection (c), which contained requirements for applications for restaurant-bar licenses to sell liquor at retail by the drink, was repealed 9-18-2012 by §2 of Ord. No. 2243. Said ordinance also repealed former Subsection (e), which required books of account and records to be available for inspection, former Subsection (f), which contained requirements for persons granted Sunday restaurant-bar licenses to sell liquor at retail by the drink, and former Subsections (g), (h) and (i), which set forth requirements for applications for amusement places to sell liquor at retail by the drink. In addition, former Subsection (d) was redesignated as Subsection (c).**

Malt liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight, manufactured from pure hops or pure extract of hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water and/or light wines containing not in excess of fourteen percent (14%) of alcohol by weight exclusively from grapes, berries and other fruits and vegetables may be sold by the drink at retail for consumption on the premises where sold when the person desiring to sell the malt liquor or light wines or both by the drink at retail for consumption on the premises shall first have obtained a license to do so from the Board of Aldermen; provided, that no such license shall be issued where the place of such sale is within one hundred (100) feet of any school, church or other building regularly used as a place of religious worship or public playground.

For every license issued for the sale of malt liquor or light wines, or both, of the alcoholic content defined in this Section, at retail by the drink for consumption on the premises where sold, the licensee shall pay to the City Collector seventy-five dollars ($75.00).

Malt liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight may be sold by grocers and other merchants and dealers in the original package direct to consumers, but not for resale and not for consumption on the premises where sold, when the person desiring to sell the malt liquor in the original package shall first have obtained a license from the Board of Aldermen. The phrase *"original package"* shall be construed and held to refer to any package containing three (3) or more standard bottles of beer.

For every license issued for the sale of five percent (5%) beer of the alcoholic content defined in this Section in the original package as herein defined, but not for resale and not for consumption on the premises where sold, the licensee shall pay to the City Collector seventy-five dollars ($75.00). Said license shall include Sunday sales from 9:00 A.M. to Midnight.

For every license issued for the sale of intoxicating liquor by the drink, the licensee shall pay the City Collector four hundred fifty dollars ($450.00). For the sale of intoxicating liquor by the drink on Sundays as herein provided for, an additional license costing three hundred dollars ($300.00) shall be required.

Section 3-49. Original Package Sales. [Ord. No. 16, §12; Ord. No. 346, §9.]

Intoxicating liquor may be sold in the original package not to be consumed on the premises where sold upon a license granted by the Board of Aldermen. For every such license there shall be paid to the City Collector one hundred fifty dollars per year. No such license shall be issued except to a person engaged in and to be used in connection with one or more of the following businesses: Drugstore, cigar and tobacco store, grocery store, general merchandise store, confectionery or delicatessen store, nor to any person who does not have or keep in this store a stock of goods having a value according to invoices of at least one thousand dollars, exclusive of fixtures and intoxicating liquors.

Section 3-49.1. Sale of Intoxicating Liquor in the Original Package on Sundays. [Ord. No. 1061 §§1-2, 6-15-1993; Ord. No. 1130, 10-4-1994; Ord. No. 1719 §2, 9-16-2003; Ord. No. 1836 §§5 — 6, 7-5-2005]

(a) Sunday Sales.

(1) For sales of intoxicating liquor in the original package at retail between the hours of 9:00 A.M. and Midnight on Sundays.

(2) For sales of malt liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight (5% beer license) and light wines containing not in excess of fourteen percent (14%) of alcohol by weight made exclusively from grapes, berries and fruits and vegetables in the original package at retail between the hours of 9:00 A.M. and Midnight on Sundays.

Such licenses may only be applied for by individuals licensed to sell the same class of product throughout the remainder of the calendar week in accordance with State law.

(b) The annual fee for either Sunday sales license, intoxicating liquor in the original package or malt liquor in excess of three and two-tenths percent (3.2%) and not exceeding five percent (5%) in the original package (5% beer license) and light wines shall be three hundred dollars ($300.00) and shall be paid at the office of the City Clerk.

Section 3-49.2. On-Premises Tasting of Alcoholic Beverages — License. [Ord. No. 1401 §1, 3-30-1999]

Notwithstanding any other provisions of this Chapter to the contrary, any person possessing the qualifications and meeting the requirements of this Chapter, who is licensed to sell intoxicating liquor in the original package at retail under Sections 311.200 and 311.293 of the Revised Statutes of Missouri and who is also licensed by the City of Eureka to sell intoxicating liquor in the original package at retail, may apply to the City of Eureka for a liquor license to conduct wine, malt beverage and distilled spirit tastings on the licensed premises. A licensee under this Section shall pay to the City of Eureka an additional thirty-seven dollars fifty cents ($37.50) per year payable at the same time and manner as other license fees. Nothing in this Section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

Section 3-50. Term; Proration of Fees. [Ord. No. 16, §25.]

The annual licenses issued under this division shall be dated August 1, and shall expire July 31 of the following year, and the fees for such licenses shall be paid annually in advance. Licenses may be issued for part of a year for businesses commenced after August 1, and proportionate fees charged based on the months or fraction of a month the license is to run to the next July 31 following.

Section 3-51. Nontransferable. [Ord. No. 16, §13.]

No license issued under this division shall be transferable or assignable.

Section 3-52. Posting. [Ord. No. 16, §19.]

All licenses issued pursuant to the provisions of this division shall be kept conspicuously posted in the place for which such license was issued.

Section 3-53. Fees to be in Lieu of Other License Fees and Ad Valorem Taxes. [Ord. No. 16, §23.]

The fees to be charged under this division shall be taken in lieu of the proportionate part of any merchant's license fee and ad valorem tax for stock and sales of intoxicating liquors under other ordinances, and the value of stocks of intoxicating liquors, and the aggregate amount of sales thereof made by any licensee shall not be returned by such merchant for purposes of merchant's license or ad valorem tax, nor shall such stock or sales be included in the computation of any merchant's license or ad valorem tax.

Section 3-54. Disposition of Fees. [Ord. No. 16, §22.]

All fees collected by the City Collector pursuant to the provision of this division shall be accounted for and paid into the City Treasury as other funds collected by the City Collector are accounted for and paid.

Section 3-55. Revocation. [Ord. No. 16, §24.]

Whenever it is shown to the Board of Aldermen that a dealer licensed under this division has not at all times kept an orderly place or house, or has violated any of the provisions of this article or of the Liquor Control Act of the State, or has no license from the state supervisor of liquor control, or has made a false affidavit in his application for a license, the Board of Aldermen, after a hearing thereon, shall revoke the license of such dealer, giving ten days notice, in writing, thereof prior to the hearing thereon to the dealer, or any person in charge of or employed in the place licensed, stating the time, place, purpose and grounds therefor, at which hearing the dealer may have counsel and produce witnesses in his behalf.

Section 3-56. Manufacturers, Wholesalers, Etc., License - Required. [Ord. No. 16, §27.]

Every manufacturer, distiller, brewer or wholesaler of intoxicating liquor within the City shall apply for and be licensed as such by the Board of Aldermen, and any such person who fails to obtain such license, or pay the fees, or who fails to comply with any of the provisions of this article or with the provisions of other ordinances or laws of the state relating to intoxicating liquor shall, on conviction, be deemed guilty of a misdemeanor.

Section 3-57. Same — When Manufacturer not Required to Obtain Wholesale License. [Ord. No. 16, §29.]

A manufacturer, distiller or brewer within this City shall not be required to take out a wholesaler's license for the sale of their products at wholesale at the place of manufacture, or in quantities of not less than one gallon.

Section 3-58. Same — Regulations to be Same as for Retail Licensee. [Ord. No. 16, §30.]

The qualifications of persons granted licenses mentioned in section 3-59, the application therefor, the officer to whom the same shall be made, the disposition of and action thereon, the payment and collection of fees, the license therefor and proceedings for revocation thereof and other regulations thereunder, shall in all respects be those provided for in this division in the case of retail liquor dealers.

Section 3-59. Same — Fees; Gallonage Charges. [Ord. No. 16 §31; Ord. No. 346 §10.]

For each of the following licenses, there shall be paid to the City Collector annual charges as follows: For a manufacturer, distiller or brewer of intoxicating liquor, six hundred seventy-five dollars; for a wholesaler or wholesale liquor dealing agent of intoxicating liquor, seven hundred fifty dollars; provided, that in addition to the license fees provided in this section, the licensee shall pay gallonage charges as required, and similar, to such requirements as those provided by law to be paid to the state, in amount one and one-half time that required by the state for such gallonage tax.

The annual fees for licenses authorized under Article III of Chapter 31, pursuant to the authority granted under Section 311.220, RSMo., 1969, at all times shall be one and one-half times the amount required by law to be paid into the state treasury for such state permit or license as of the date of application therefor.

Section 3-59.1. Temporary Liquor Permit to Certain Organizations. [Ord. No. 1143 §§1 — 4, 1-3-1995; Ord. No. 1980 §2, 6-19-2007]

(a) A temporary permit for the sale of all classes of intoxicating liquor as defined in Section 311.020, RSMo., and non-intoxicating beer as defined in Section 312.010, RSMo., for consumption on the premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for the sale of such intoxicating liquor or non-intoxicating beer at a picnic, bazaar, fair or similar gathering.

(b) To secure the permit, the applicant shall complete and submit an application along with a permit fee of twenty-five dollars ($25.00). This permit must state the location and date or dates of the intended sales. Such permit shall be reviewed and approved by the Eureka Police Department and be forwarded to the Board of Aldermen for consideration and approval at an open public meeting.

(c) As a condition of approval and issuance of such a temporary permit from the City, the applicant must secure all necessary permits and authority from St. Louis County, the State of Missouri and any other agencies as applicable. The City of Eureka temporary permit is immediately null and void if any and all additional approvals, permits or licenses are not procured by the applicant prior to the subject event.

(d) No club or organization may be authorized to obtain and operate under a temporary permit to allow the on premises sales and consumption of all classes of intoxicating liquor for a period exceeding seven (7) days per calendar year.

Section 3-59.2. Transfer Fee. [Ord. No. 1857 §1, 9-20-2005]

Licenses issued under this Chapter are issued for a specific business at a specific location. If during the course of the annual liquor license period for which a business has already paid for its license, it moves to another location within the City at which it will conduct the identical type of alcoholic beverage sales, there shall be a one dollar ($1.00) transfer fee.

ARTICLE IV
Outdoor Eating Place/Beer Garden

Division 1
Generally

Section 3-60. Short Title. [Ord. No. 970 §1, 8-21-1990]

This Article shall be known and may be cited as the Outdoor Eating Place/Beer Garden Ordinance.

Section 3-61. Definitions. [Ord. No. 970 §2, 8-21-1990]

For the purpose of this Article, the following words and phrases shall have the meanings ascribed to them:

LICENSEE — Any person having a City license in full force and effect issued hereunder for an outdoor eating place/beer garden.

OUTDOOR EATING PLACE/BEER GARDEN — Any establishment where food, alcohol, or beverages are sold to the consumers, out-of-doors, in connection with a licensed restaurant or tavern, and where such food, alcohol, or beverages are intended to be consumed upon the premises or on the premises outside the building.

WASTE MATERIAL — Paper cups, straws, napkins, garbage, beverages, and all other waste matter intended for disposal which, if not placed in a proper receptacle, tends to create a public nuisance by rendering property unclean, unsafe and unsightly.

Section 3-62. Article Supplemental to Other Regulations. [Ord. No. 970 §3, 8-21-1990]

This Article is intended to supplement and not to supplant any existing laws, ordinances or regulations.

Section 3-63. Licensee to Maintain Quiet and Good Order. [Ord. No. 970 §4, 8-21-1990]

It shall be the duty of the licensee to maintain quiet and good order upon the premises of an outdoor eating place/beer garden and not permit disorderly or immoral conduct or loitering. The licensee shall not cause or create any noise or other nuisance in the outdoor area where the quiet and good order of the premises or of the neighborhood are disturbed.

Section 3-64. Disposal of Refuse by Licensee; Containers. [Ord. No. 970 §5, 8-21-1990]

At least once every twenty-four (24) hours the licensee shall dispose of waste materials which tend to create a public nuisance on the premises. The licensee shall keep the premises whereon the outdoor eating place/beer garden is located, free from waste

material and shall provide the outdoor eating place/beer garden with appropriate refuse containers.

Section 3-65. Sale From Windows and Other Openings. [Ord. No. 970 §6, 8-21-1990]

The sale of food, alcohol, or beverages or other products from a window or other opening in the building connected to the outdoor eating place/beer garden shall not be permitted unless such window or opening is approved by the Board of Aldermen.

Section 3-66. Serving Hours. [Ord. No. 970 §7, 8-21-1990]

Serving hours shall be no greater than permitted by law except the Board of Aldermen may impose reasonable restrictions based on neighborhood conditions.

Section 3-67. Littering. [Ord. No. 970 §8, 8-21-1990]

No person shall place, throw or deposit any case, bottle, paper, waste material or refuse upon the outside premises of any outdoor eating place/beer garden or in the vicinity of same except in adequate receptacles provided for that purpose nor shall the licensee permit such conduct.

Section 3-68. Illumination of Area. [Ord. No. 970 §9, 8-21-1990]

The outdoor eating place/beer garden operated after dark shall be adequately illuminated by electric lights; but such illumination shall be so arranged and shielded by the licensee so as to reflect away from any adjoining property and streets.

Section 3-69. Noise and Other Disturbances by Patrons. [Ord. No. 970 §10, 8-21-1990]

No person on the premises of an outdoor eating place/beer garden shall needlessly make or cause to be made any loud or unseemly noise, nuisance, or disturbance whereby the quiet and good order of the premises or the neighborhood is disturbed.

Section 3-70. Fence or Wall Required. [Ord. No. 970 §11, 8-21-1990; Ord. No. 2044 §1, 5-6-2008]

The licensee of an outdoor eating place/beer garden shall provide a wall or fence of adequate height to screen the patrons on the premises from the view of the surrounding property. Such fence or wall shall be of a design and structure approved by the Board of Aldermen. The perimeter of the fence or wall shall be landscaped by the licensee with suitable plants and shrubbery to preserve as far as possible harmony with the appearance of the surrounding property. The Board of Aldermen may give consideration to waiving this requirement on a site specific basis upon making a determination that such would not be detrimental to public health or the character of the area.

Section 3-71. Occupancy. [Ord. No. 970 §12, 8-21-1990]

The occupancy of the outside eating place/beer garden shall not be greater than the actual occupancy allowed by occupancy permit/license of the attached restaurant or tavern.

Division 2
License Requirements

Section 3-72. Special License Required. [Ord. No. 970 §13, 8-21-1990]

No person shall construct, operate, or maintain an outside eating place/beer garden within the City without first obtaining a license as hereinafter provided by the Board of Aldermen.

Section 3-73. Limited License. [Ord. No. 970 §14, 8-21-1990]

The Board may, at its discretion, issue a limited license for a period of not less than one (1) day nor more than ten (10) consecutive days, upon application. Application for such limited license shall conform to the requirements of this Article, except that the application fee shall be twenty-five dollars ($25.00) for each day. The Board may waive or alter the fence or wall requirement (Section 3-70) for a limited license applicant. All other standards and requirements of this Article shall apply to limited license applicants.

Section 3-74. Application Procedures. [Ord. No. 970 §15, 8-21-1990]

Applications for licenses required by this Article shall be made upon blank forms prepared and made available by the Board of Aldermen and shall state:

(1) The name, home address and proposed business address of the applicant.

(2) The number of patrons which the proposed outdoor eating place/beer garden is designed to accommodate.

(3) The hours of operation for the proposed outdoor eating place/beer garden.

(4) Such other reasonable information as the Board of Aldermen shall find reasonably necessary to effectuate the purpose of this Article and to arrive at a fair determination of whether the terms of this Article have been complied with.

Section 3-75. Plat or Drawing to Accompany Application; Exception. [Ord. No. 970 §16, 8-21-1990]

Every application for a license required by this Article shall be accompanied by a plat or drawing of the proposed outdoor eating place/beer garden:

(1) The location, size and capacity of the facility.

(2) The location and size of the entrances and exits.

(3) The kind of ground surface.

(4) The location, size and construction of all structures.

(5) The location, size and construction of surrounding walls, fences or barriers.

Section 3-76. Application Fee. [Ord. No. 970 §17, 8-21-1990]

Initial applications and applications after revocation for a license required by this Article shall be accompanied by an application fee of one hundred dollars ($100.00).

Section 3-77. Bond or Liability Insurance Required. [Ord. No. 970 §18, 8-21-1990]

Every application for a license required by this Article shall be accompanied by a bond, approved as to form by the City Attorney, executed by a bonding or surety company authorized to do business in the State, in the sum of five thousand dollars ($5,000.00) conditioned upon the payment by the licensee of any and all final judgements for injuries or damages resulting to persons or property arising out of the operation or maintenance of any outdoor eating place/beer garden. Such bond shall run to the City for the benefit of any person who may receive injuries and for the benefit of any person who may claim redress for property damage resulting from the operation or maintenance of an outdoor eating place/beer garden. Such bond shall remain in full force and effect for the full period of time for which the license is effective. In lieu of a bond, a liability insurance policy, issued by an insurance company authorized to do business in the State, which conforms to the requirements of this Section may be accepted.

Section 3-78. Standards for Issuance. [Ord. No. 970 §19, 8-21-1990]

The Board of Aldermen may issue or refuse to issue a license under the provisions of this Article after examining and considering:

(1) Any danger to the health, morals and safety of the people of the City.

(2) The reputation of the applicant, his officers or agents, if any, and their ability to operate the outdoor eating place/beer garden in a manner consistent with the maintenance and preservation of good order, public health, safety, good morals and welfare.

(3) The effect upon the peace and quiet of the neighborhood of conducting an outdoor eating place/beer garden at the location designated between the hours for which a license is required.

(4) The insurance companies or sureties utilized by this licensee in complying with the provisions of this Article.

(5) Whether the requirements of this Article and all other governing laws and ordinances have been met.

Section 3-79. License Fee. [Ord. No. 970 §20, 8-21-1990; Ord. No. 1496 §1, 11-21-2000]

Upon approval by the Board of Aldermen of an application for a license required by this Article, a license shall be issued by the City Clerk or the City Collector after payment of the license fee prescribed for an outdoor eating place/beer garden in Section 3-76.

Section 3-80. (Reserved) [4]

Section 3-81. Revocation of License. [Ord. No. 970 §22, 8-21-1990]

In addition to any other reason specified in any other ordinance of the City, a license issued under the provisions of this Article may be revoked or suspended by the Board of Aldermen when the Board of Aldermen finds that:

(1) The licensee is operating in violation of this Article or of any other governing law, ordinance or regulation; or

(2) The licensee is operating so as to constitute a nuisance by reason of noise, disorderly or illegal conduct or immoral activity on the premises.

Section 3-82. Exemptions. [Ord. No. 970 §23, 8-21-1990]

Amusement parks of one hundred (100) acres or more and beer gardens in effect prior to August 21, 1990, are exempt from the requirements of this Article.

ARTICLE V
Sidewalk Cafe — Standards And Procedures

Division 1
Generally

Section 3-83. Short Title. [Ord. No. 1608 §1, 5-7-2002]

This Article shall be known and may be cited as the Sidewalk Cafe': Standards and Procedures Ordinance.

Section 3-84. Definitions. [Ord. No. 1608 §1, 5-7-2002]

For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

SIDEWALK — A public or private pedestrian walkway with permanent surfacing.

SIDEWALK CAFE — An outdoor eating place on a public or private sidewalk where patrons may consume food and/or beverages provided by a food service establishment. Such establishments may either provide table service in the outdoor dining areas or sell take-out items to be consumed in the outdoor eating place. [Ord. No. 2306 §1, 7-1-2014]

Section 3-85. Article Supplemental to Other Regulations. [Ord. No. 1608 §1, 5-7-2002]

This Article is intended to supplement and not to supplant any existing laws, ordinances or regulations.

Section 3-86. Maintenance of Quiet and Good Order. [Ord. No. 1608 §1, 5-7-2002]

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4. **Editor's Note — Ord. no. 1496 §2, adopted on November 21, 2000, repealed §3-80. Former section 3-80 derived from ord. no. 970 §21, 8-21-1990.**

It shall be the duty of the licensee to maintain quiet and good order upon the premises of a sidewalk cafe', and not permit disorderly or immoral conduct or loitering. The licensee shall not cause or create any noise or other nuisance in the outdoor area where the quiet and good order of the premises or the neighborhood are disturbed. No outdoor speakers or music shall be allowed.

No patron on the premises of a sidewalk cafe' shall needlessly make or cause to be made any loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood is disturbed.

Section 3-87. Disposal of Refuse and Littering. [Ord. No. 1608 §1, 5-7-2002]

At least once every twenty-four (24) hours the licensee shall dispose of waste materials which tend to create a public nuisance on the premises. The licensee shall keep the premises whereon the sidewalk is located free from waste material and shall provide the sidewalk cafe' with appropriate refuse containers. The sidewalk cafe' shall be kept clean and free of debris at all times.

No patron shall place, throw or deposit any case, bottle, paper, waste material or refuse upon the outside premises of any sidewalk cafe' or in the vicinity of same except in adequate receptacles provided for that purpose nor shall the licensee permit such conduct.

Section 3-88. Sale from Windows and Other Openings. [Ord. No. 1608 §1, 5-7-2002]

The sale of food, alcohol, beverages or other products from a window or other opening in the building connected to the sidewalk cafe' shall not be permitted unless such window or opening is approved by the Board of Aldermen.

Section 3-89. Serving Hours. [Ord. No. 1608 §1, 5-7-2002]

Serving hours shall be no longer than permitted by law except the Board of Aldermen may impose reasonable restrictions based on neighborhood conditions.

Section 3-90. Illumination of Area. [Ord. No. 1608 §1, 5-7-2002]

A sidewalk cafe' operated after dark shall be adequately illuminated by electric lights; but such illumination shall be so arranged and shielded by the licensee so as to reflect away from any adjoining property and streets.

Section 3-91. Occupancy. [Ord. No. 1608 §1, 5-7-2002]

Restaurants in commercial or planned commercial districts may provide a sidewalk cafe', contiguous to their restaurant facility, under the following additional conditions:

(1) No permanent structures or paving are installed.

(2) Outdoor tables, chairs, furniture and decorative items shall be of uniform design and shall be removed from public property November first (1st) through March thirty-first (31st).

(3) Restaurant service equipment shall not be permitted outdoors.

(4) An unobstructed pedestrian walkway shall be maintained on the public sidewalk between the tables, umbrellas and the vehicle traffic way.

(5) The seating shall not obstruct any entry or exit way of the building or adjacent buildings.

(6) Adequate parking shall exist for the increased restaurant use. A determination of inadequate parking shall be grounds for denial of the permit.

(7) *Other allowable uses.* A sidewalk cafe' may incorporate potted street plants or street furniture, provided that the required pedestrian path is maintained in the area.

(8) *Other Conditions.* Any other conditions or provisions regarding public safety or health as determined by the Board of Aldermen.

Division 2
License Requirements

Section 3-92. Sidewalk Cafe' License Required. [Ord. No. 1608 §1, 5-7-2002]

No person shall construct, operate or maintain a sidewalk cafe' within the City without first obtaining a sidewalk cafe' license as hereinafter provided by the Board of Aldermen.

Section 3-93. Application Procedures. [Ord. No. 1608 §1, 5-7-2002]

Applications for licenses required by this Article shall be made upon blank forms prepared and made available by the Board of Aldermen and shall state:

(1) The name, home address and proposed business address of the applicant. For a sidewalk cafe' to be located on a private sidewalk, the property owner's signature shall be required.

(2) The number of patrons which the proposed sidewalk cafe' is designed to accommodate.

(3) The proposed hours of operation.

(4) Such other reasonable information as the Board of Aldermen shall find reasonably necessary to effectuate the purpose of this Article and to arrive at a fair determination of compliance with the terms of this Article.

Section 3-94. Plat or Drawing to Accompany Application. [Ord. No. 1608 §1, 5-7-2002; Ord. No. 2306 §2, 7-1-2014]

Every application for a license required by this Article shall be accompanied by a plat or drawing showing the sidewalk in relation to the business, street lights, planters, curbing, on-street parking or any other public appurtenances, and the proposed location of any tables and chairs.

Section 3-95. Application Fee. [Ord. No. 1608 §1, 5-7-2002]

There shall be no application or permit fee for a sidewalk cafe'.

Section 3-96. Liability Insurance for Public Sidewalk Use. [Ord. No. 1608 §1, 5-7-2002]

At the time of application, the following shall be required for a sidewalk cafe' to be located on a public sidewalk:

(1) *Indemnification.* Prior to the issuance of any permit, the applicant shall execute and deliver to the City upon a form supplied by the City an agreement in writing and acknowledged by the applicant forever to defend, indemnify and hold harmless the City and its employees and agents from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of a sidewalk cafe' located on a public sidewalk. In addition, such agreement shall contain a provision that the permit is wholly of a temporary nature and that it vests no permanent right whatsoever.

(2) *Liability insurance required.* The permit applicant shall obtain and maintain in force comprehensive general liability, broad form property damage and blanket contractual liability insurance in a combined single limit amount, per claim and aggregate, of at least one million dollars ($1,000,000.00) covering the permit applicant's operations on the sidewalk. Such insurance shall name, on a special endorsement form, the City, its elected and appointed boards, officers, agents and employees as additional insureds. A certificate of insurance shall contain provisions that prohibit cancellations, modifications or lapse without thirty (30) days' prior written notice to the City.

Section 3-97. Standards for Issuance. [Ord. No. 1608 §1, 5-7-2002]

The Board of Aldermen may issue or refuse to issue a license under the provisions of this Article after examining and considering:

(1) Any danger to the health, morals and safety of the people of the City.

(2) The reputation of the applicant, his officers or agents, if any, and their ability to operate the sidewalk cafe' in a manner consistent with the maintenance and preservation of good order, public health, safety, good morals and welfare.

(3) The effect upon the peace and quiet of the neighborhood of conducting a sidewalk cafe' at the location designated between the hours for which a license is required.

(4) The insurance companies or sureties utilized by this licensee in complying with the provisions of this Article.

(5) Whether the requirements of this Article and all other governing laws and ordinances have been met.

Section 3-98. Revocation of License. [Ord. No. 1608 §1, 5-7-2002]

In addition to any other reason specified in any other ordinance of the City, a license issued under the provisions of this Article may be revoked or suspended by the Board of Aldermen when the Board of Aldermen finds that:

(1) The licensee is operating in violation of this Article or of any other governing law, ordinance or regulation; or

(2) The licensee is operating so as to constitute a nuisance by reason of noise, disorderly or illegal conduct or immoral activity on the premises.

Section 3-99. Exemptions. [Ord. No. 1608 §1, 5-7-2002]

Amusement parks of one hundred (100) acres or more are exempt from the requirements of this Article as they pertain to location of sidewalk cafe's on private sidewalks.

Chapter 4

ANIMALS AND FOWL

ARTICLE I
In General

Section 4-1. Keeping and Harboring — Generally. [Ord. No. 950 §1, 3-22-1990; Ord. No. 1652 §1, 10-1-2002; Ord. No. 1953 §1, 1-2-2007; Ord. No. 2041 §1, 4-1-2008; Ord. No. 2148 §1, 12-7-2010; Ord. No. 2208 §1, 3-6-2012; Ord. No. 2210 §1, 4-17-2012; Ord. No. 2238 §1, 8-7-2012]

(a) No person shall keep, raise or harbor any horse, pony, cow, sheep or goat within the City unless such animals are kept on a residentially zoned tract of land not less than three (3) acres in size, with no more than one (1) of any such animal being allowed per acre. Goats may be kept, raised and harbored on commercially zoned tracts of land of five (5) or more acres as approved by the Board of Aldermen. Such consideration may include, but not be limited to, the size and location of the area where they are to be harbored, as well as the total number to be harbored on the subject parcel.

(b) No person shall keep, raise or harbor chickens (other than as provided in Section 4-1.2), guinea fowl, turkeys, ducks or geese unless such fowl are kept on a residentially zoned tract of land not less than three (3) acres in size, with no more than five (5) of any such fowl being allowed per acre and no more than fifty (50) of any such fowl on a tract of land irrespective of the size of such tract. Chickens may be kept, raised and harbored on commercially zoned tracts of land of five (5) or more acres as approved by the Board of Aldermen. Such consideration may include, but not be limited to, the size and location of the area where they are to be harbored, as well as the total number to be harbored on the subject parcel.

(c) No species of pigs or hogs may be kept, raised or harbored within the City.

(d) Any other species of domesticated animal (with the exception of pigs or hogs) or fowl and/or densities higher than that which is set forth in Subsections (a) and (b) above may receive consideration through the special use permit process, however, such may only be considered in a residential zoning district.

(e) The provisions in this Section shall not be construed as a prohibition against the harboring of domestic household pets such as dogs (with the exception of American Pit Bull Terriers or any American Pit Bull Terrier cross-breed thereof which are prohibited), cats, rabbits, squirrels, chipmunks, white mice and the like, the harboring of which is authorized subject to compliance by the owner or custodian thereof with pertinent conditions and regulations set forth elsewhere in this Code.

Section 4-1.1. Same — Wild Animals and Reptiles. [Ord. No. 417, §2]

No garden except a duly constituted zoological garden operated and conducted by and with the consent of the city, may keep or maintain any wild or undomesticated animal or reptile of any kind. The term "wild or undomesticated animal or reptile" includes animals or reptiles generally known as wild, such as lions, tigers, elephants, wolves, bears, jaguars, cougars, wildcats, poisonous snakes and others of this general class and description, whether or not domesticated, within the limits of the city.

Any person violating any of the provisions of this section may be fined not less than one dollar nor more than five hundred dollars for each offense.

Section 4-1.2. Same — Chickens. [Ord. No. 2148 §2, 12-7-2010; Ord. No. 2186 §1, 9-6-2011]

(a) Chickens may be harbored and raised as pets in the City on a lot only within single-family residential zoning districts subject to the following restrictions upon issuance of the required permit:

(1) Such activity may only be conducted on property that is not contiguous with commercially zoned property, however, such activity is allowed on property which is a minimum of three (3) acres in size irrespective of the zoning of contiguous property.

(2) Only chicken hens may be kept — no roosters.

(3) The minimum lot area on which such activity may take place is ten thousand (10,000) square feet, except as approved by the Board of Aldermen.

(4) Chicken coops must be situated a minimum of fifty (50) feet from any dwelling unit, with the exception of that of the owner.

(5) No more than six (6) chicken hens may be kept on a single lot.

(6) Chicken hens must be kept in a fenced enclosure which must remain in a clean, dry and odor-free condition at all times, however, they need not be kept in a fenced enclosure when under the direct supervision of the owner on the owner's property.

(7) All chicken hens and eggs raised by an individual on their lot may only be used for their and their family's personal enjoyment and consumption.

(b) To receive consideration for the harboring and raising of chickens one must submit the required permit application accompanied by a twenty-five dollar ($25.00) permit fee. If the applicant is not the owner of the property on which such activity is proposed, written authority from the owner must be provided. The permit application must be accompanied by a scaled plan of the subject property depicting lot dimensions, proposed coop location and the proximity of said coop to adjacent dwelling units on surrounding parcels. A City of Eureka Building Inspector will inspect the subject property to ensure initial compliance and may enter the property at any future date to ensure continued compliance.

Section 4-2. Running at Large Prohibited. [Ord. No. 243, §41]

No person owning or having charge of any horse, mule, jennet, bull, cow, sheep, hog, goat, chicken or goose, or any domesticated or wild fowl of any kind, shall allow the same to run at large within the city.

Section 4-3. Animals Creating a Nuisance. [Ord. No. 1161[1] §§1 — 2, 5-2-1995; Ord. No. 2041 §2, 4-1-2008]

(a) It shall be unlawful for any person responsible for any animal to allow it to create a nuisance.

(b) An animal creates a nuisance if it:

(1) Soils, defiles, or defecates on property other than property of the person responsible for the animal unless such waste is immediately removed by a person responsible.

(2) Damages public property or property belonging to a person other than a person responsible for the animal.

(3) Is maintained in a manner that is offensive, annoying or dangerous to the public health, safety or welfare of the community.

(4) Causes a disturbance by excessive barking, howling, meowing or other noise making.

(5) Chases vehicles, including bicycles.

(6) Without reasonable provocation attacks or bites persons or other animals.

(7) Impedes refuse collection, mail delivery, meter reading or other public service activities.

(8) Turns over, rummages through, or damages a refuse container.

(9) Trespasses on property not owned, leased or rented by the person responsible for the animal.

(10) Creates excessive odors.

(11) Creates land erosion.

(c) Restriction on number of dogs kept outside a kennel. No person shall be permitted to own, maintain or keep more than three (3) dogs of the age of four (4) months or older on any premises of less than two (2) acres, unless they have been licensed by the city to operate a kennel.

(d) The penalty for each violation of any provision of this Section shall be no less than one dollar ($1.00), and no more than five hundred dollars ($500.00).

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1. **Editor's Note — Ord. no. 1161 repealed §4-3 and replaced it with the above section, former §4-3 derived from ord. no. 243 §41.**

Section 4-4. Sale, Gift or Award of Domestic Fowl or Rabbits. [Ord. No. 243 §41]

It shall be unlawful to sell, give or award, or offer for sale, gift or award, eleven (11) or less of chickens, ducks, geese or other domestic fowl under one (1) month of age.

It shall be unlawful to sell, give or award, offer for sale, gift or award, any live rabbit less than six (6) weeks of age unless such sale, gift or award shall include the sale, gift or award of the dam.

Section 4-5. Malicious Killing, Wounding or Torturing Dumb Animals. [Ord. No. 198]

It shall be unlawful for any person to willfully and maliciously or cruelly kill, maim, wound, beat or torture any dumb animal, whether it belongs to himself or another; provided, that nothing herein contained shall be construed to prohibit or interfere with any scientific experiments or investigations; provided further, that nothing in this section shall apply to the hunting or trapping of wild birds or animals.

Section 4-6. Impounding Without Food and Water, Overwork and Cruel Treatment of Animals. [Ord. No. 198, §2]

It shall be unlawful for any person to impound or confine, or cause to be impounded or confined, in any pound, or other place, any animal or creature, and fail to supply it during such confinement with sufficient food and water, or to cruelly overwork any domestic animal, or to cruelly drive or work any domestic animal when unfit for labor, or to unnecessarily fail to provide any domestic animal with proper food, drink, shelter or protection from the weather, or to cruelly abandon any domestic animal to die, or to carry or cause any domestic animal to be carried or moved on any vehicle or otherwise in an unnecessarily cruel or inhuman manner; and it shall be unlawful for the owner of any domestic animal to cause or knowingly permit the animal to be treated in any such manner as described in this section.

Section 4-7. Female Dogs in Heat. [Ord. No. 142, §5]

All female dogs shall be kept securely confined in an enclosed place while in heat.

Section 4-8. Impoundment of Dogs or Other Animals Generally. [Ord. No. 142, §6; Ord. No. 184, §5]

The city marshal or other persons designated by the city or under contract with the city to provide animal control shall have the power to catch, confine and impound dogs and other animals as follows:

(a) Dogs which are without a current rabies registration and vaccination tag issued by the health department of the county.

(b) Female dogs not securely confined in an enclosed place while in heat.

(c) Dogs or other animals affected with rabies and all dogs and other animals suspected by him or such employee to be exposed to or affected with rabies including dogs or

other animals known to have been bitten by a rabid animal, whether such dog or other animal is running at large or on a leash.

(d) Dogs with vicious propensities.

Dogs or other animals impounded in accordance with this section shall be impounded in the city dog pound or elsewhere under the supervision of and in a manner satisfactory to the city marshal.

Section 4-9. Redemption of Impounded Animals. [Ord. No. 184, §7; Ord. No. 616, §1]

Any dog captured and impounded by the city as authorized in this chapter and determined by the city marshal or his contracted agent, not to be affected with rabies, may be redeemed by the owner or other person having the right of possession of such animal upon the presentation of a current rabies registration and vaccination tag and a current registration certificate issued by the health department of the county and upon payment of a redemption fee of two dollars. If the animal is not redeemed in the manner provided herein in five days after his capture, such animal shall be disposed of as directed by the city marshal; except, that such animal may be redeemed by any person before its disposal upon presentation of a current rabies registration and vaccination tag and a current registration certificate issued by the health department of the county for such animal and paying the redemption fee provided herein. This fee shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty-cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

Section 4-10. Interference with City Marshal Prohibited; Right of Entry of City Marshal. [Ord. No. 142, §10]

It is unlawful for any person to conceal an animal or interfere with the city marshal or persons designated by him in the performance of their legal duties as provided in this chapter. The city marshal or persons designated by him shall have the right of entry to any unenclosed lots or lands for the purpose of collecting any stray or untagged dog or other animal. The city marshal or his duly appointed representative shall have the right of entry to any property or premises within the city during the period that a quarantine order has been issued by the board of aldermen, for the purpose of examining or obtaining any dog suspected of having rabies or having been exposed to rabies.

Section 4-11. Vicious Animals. [Ord. No. 842, §2.; Ord. No. 1687 §1, 5-6-2003]

(a) *"Owner"* shall mean any person, firm, corporation, organization or department possessing or harboring or having the care or custody of an animal.

(b) *"Vicious Animals"* means:

(1) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals, or cause annoyance to persons using public or private roads, streets or sidewalks when unprovoked, or to chase or molest persons when unprovoked; or

(2) Any animal which because of its size, physical nature or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this Section or;

(3) Any animal which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or

(4) Any animal owned or harbored primarily or in part for the purpose of animal fighting, or any animal trained for animal fighting.

(c) A vicious animal is "unconfined" if the animal is not securely confined indoors, confined in a securely enclosed and locked pen or structure upon the premises of the owner of the animal, or confined by an electrically controlled fencing mechanism. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be imbedded into the ground no less than one (1) foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

(d) The owner of a vicious animal shall not suffer or permit the animal to go unconfined.

(e) The owner of a vicious animal shall display in a prominent place on his/her premises a clearly visible warning sign indicating that there is a vicious animal on the premises. A similar sign is required to be posted on the pen or kennel of the animal. In case a minor is the owner or keeper of the animal, the duty of posting this warning sign shall be upon the adult person in whose family the minor lives or who is in charge of the premises where such an animal is kept.

(f) *Penalties.* Whoever violates any provision of this Section shall be guilty of a misdemeanor and may be punished by a fine of not more than five hundred dollars ($500.00), or imprisonment of not more than one hundred eighty (180) days in jail, or by both fine and imprisonment.

Section 4-12. Dogs Running at Large Prohibited; Penalties. [Ord. No. 142, §§16, 17; Ord. No. 184, §15.; Ord. No. 1785 §1, 9-7-2004]

It shall be unlawful for any person owning, controlling, possessing or having the management or care, in whole or in part, of any dog to permit the dog to go off the premises of the owner or keeper thereof, unless it is securely tied or led by a line or leash of a length of no more than six (6) feet. Any person charged with the violation of any provision of this Section may, within five (5) days after receipt of a notice, pay a

designated fine therefor to the Clerk of the court of the City; provided, that any person accused of his third (3rd) or additional violation within one (1) consecutive twelve (12) month period shall not be permitted to pay a designated fine therefor, but in such cases the matter shall be referred to the City Attorney who shall institute legal proceedings against such person in the proper court in the City.

The schedule of penalties for violations of this Section if paid within five (5) days after receipt of notice is an follows:

	1st Offense	**2nd Offense**
For dogs tagged as required in this Chapter	$5.00	$10.00
For dogs not tagged as required in this Chapter	$10.00	$15.00

Nothing contained herein shall be construed as to abrogate or suspend any of the provisions of Section 14-9.

In any prosecution charging a violation of this Section, proof that a dog was running off the premises in violation of this Section, together with proof that the defendant named in the complaint was, at the time described in the complaint, the owner or keeper of such dog, shall constitute a prima facie presumption that the owner or keeper was the person who permitted the dog to go off the premises.

Section 4-12.1. Cats Running at Large Prohibited; Penalties. [Ord. No. 765, §1.; Ord. No. 1785 §1, 9-7-2004]

It shall be unlawful for any person owning, controlling, possessing or having the management or care, in whole or in part, of any cat to permit the cat to go off the premises of the owner or keeper thereof, unless it is securely tied or led by a line or leash of a length of no more than six (6) feet. Any person charged with the violation of any provision of this Section may, within five (5) days of the receipt of the notice, pay a designated fine therefor to the Clerk of the court of the City; provided, that any person accused of a third (3rd) or additional violation within one (1) consecutive twelve (12) month period shall not be permitted to pay a designated fine therefor, but in such cases the matters shall be referred to the City Attorney who shall institute legal proceedings against such person in the proper court in the City.

Section 4-13. Enforcement of Chapter; Authority to Contract for Collecting, Etc., Animals. [Ord. No. 142, §18; Ord. No. 184, §17]

The city marshal shall be responsible for the administration of this chapter and shall have and possess all the powers necessary to the effective administration and enforcement thereof. The city marshal is authorized to enter into contract, subject to the approval of the board of aldermen, with any agencies, individual or private concern providing the service of collecting and handling animals under the provisions of this chapter and such contracting party shall have the power to act as the agent of the city marshal under the terms of this chapter.

ARTICLE II
Rabies Control

Section 4-14. Inoculation of Dogs Against Rabies Required. [Ord. No. 142, §1]

Every resident person who owns, controls, manages, possesses or has part interest in any dog kept any time during the year or who permits a dog to come upon, on or in, and to remain in or about his home, place of business or other premises in the area affected by this article shall have such dog inoculated against rabies, but such inoculation requirements shall not apply to dogs less than four months of age. Such dogs shall be inoculated at least once each year unless a three year type vaccine, approved by the county health commissioner, is administered, in which case the dogs shall be inoculated at least once every three years. For the purpose of facilitating the provisions of this section, the city may provide for the holding of dog inoculation clinics.

Section 4-15. Vaccination Tag and Certificate for Dog. [Ord. No. 184, §1]

It shall be unlawful for any person to own any dog four months of age or older unless such dog has been vaccinated against rabies and wears a current, unexpired rabies registration and vaccination tag issued by the health department of the county and the owner possesses a current registration certificate issued by the health department of the county.

Section 4-16. Authority of City Marshal Generally. [Ord. No. 142, §7]

The city marshal or a person designated by him shall dispose of any dog or other animal affected with rabies and he shall have the power to examine and impound any animal bitten by or exposed to any animal affected with rabies. He shall have the power to require the owners of such dogs to take necessary measures to prevent further spread of rabies, and to dispose of any exposed animal if such necessary measures are not taken by the owners.

Section 4-17. Quarantine. [Ord. No. 142, §9]

Whenever rabies becomes prevalent in the city, or in the county surrounding the city, the city marshal shall recommend to the board of aldermen that a quarantine should be issued. The board of aldermen may issue a quarantine order pursuant to such recommendation. The city marshal shall, immediately after such order is issued, at least during the first week after the quarantine order is issued, take proper measures to inform the people of the city of the existence of the quarantine order and also of the penalties attached to the violation of the quarantine order. A quarantine order shall direct the owner or person having custody of any dog to securely confine or restrain on a leash in the hands of a competent person, such animal during the period of quarantine. The quarantine may be terminated by the board of aldermen upon the recommendation of the city marshal after the necessity therefor no longer exists. No quarantine shall remain effective for more than six months from the date of its adoption, unless the quarantine order is specifically extended by order of the board of aldermen.

Section 4-18. Abandonment of Animal Subject to Rabies Prohibited. [Ord. No. 142, §11]

It is unlawful for any person having ownership, control, management, or possession of any animal subject to rabies to abandon such animal in any locality in the city.

Section 4-19. Procedure Upon Animal Biting Person. [Ord. No. 142, §12]

It shall be the duty of any person bitten by any animal or the parent or guardian of any minor child bitten by an animal to report the same to the city marshal immediately. Such report shall contain the name and address of the owner and of the animal, the day and time bitten, the location where bitten and a general description of the animal.

The city marshal shall immediately take the animal into custody or have the same confined by the owner thereof for ten days under his supervision to determine whether such animal be affected with rabies. If the owner shall not confine such animal in a manner satisfactory to the city marshal, such animal shall be forthwith surrendered to the city marshal or to a person designated by him upon demand.

Section 4-20. Reports of Doctors and Veterinarians. [Ord. No. 142, §13; Ord. No. 184, §12]

It shall be the duty of every physician to report immediately to the city marshal the full name, age and address of any person under his care or observation who has been bitten by an animal affected with rabies or suspected of being affected with rabies, and every veterinarian treating or having under observation any animal affected with rabies, or suspected of being rabid, or suspected of having been exposed to rabies, shall report to the city marshal the owner's name and address.

Section 4-21. Procedure Upon Destruction of Animal. [Ord. No. 142, §14]

Any person destroying an animal affected with rabies or suspected of being affected with rabies shall immediately notify the city marshal and shall surrender the carcass of such animal upon demand. The owner or custodian of any such destroyed animal shall immediately provide the city marshal with full particulars thereof, including the time, date, location, the names and addresses of any person bitten by the animal and also the name and address of the owner or person having custody of any animal exposed to the animal destroyed.

ARTICLE III
Miscellaneous Regulations

Section 4-22. Tampering with a Police Dog. [Ord. No. 1163 §1, 5-16-1995]

(a) It shall be unlawful for any person to taunt, torment, tease, beat, stroke, interfere with, endanger, injure or kill or administer or subject any desensitizing drugs, chemicals or substance to any dog used by a police officer in the performance of his duties or when the dog is in any enclosure while off duty; provided, however, that this restriction does not apply to a police officer or veterinarian that may perform euthanasia in emergency situations when delay would cause the dog undue suffering and pain.

(b) Any person violating these provisions shall be subject to the general penalties provided for violation of City ordinances.

Chapter 5

BUILDINGS

ARTICLE I
General Regulations

Division 1
Administration Of Article Generally

Section 5-1. Scope of Article. [Ord. No. 464, §2]

Regulations provided for in this article shall be known as the building regulations of the city. The intent of the regulations is to insure public safety, health and welfare of inhabitants of the city insofar as they are affected by building construction, through structural strength, adequate egress facilities, sanitary equipment, light and ventilation and fire safety and in general to secure safety to life and property from all hazards incident to the design, erection, repair, removal, demolition or use and occupancy of buildings; structures or premises.

Section 5-1.1. Deadline for Commencement of Construction Imposed. [Ord. No. 1394 §1, 2-16-1999]

(a) The Planning and Zoning Commission and/or Board of Aldermen in conjunction with authority being granted for any commercial or industrial development, shall impose a deadline by which construction of the principal structure must commence. Such deadline shall be no longer than one (1) year following final Planning and Zoning Commission and/or Board of Aldermen approval, but may not be less than six (6) months. On or before the construction commencement deadline, the Planning and Zoning Commission and/or Board of Aldermen may consider deadline extensions. No single deadline extension may exceed a period of six (6) months.

(b) In the event that a construction commencement deadline is reached and not extended, any authority granted by the City for the application associated with the principal structure shall be rescinded without any action being required by the City.

Section 5-2. Department of Building Inspection. [Ord. No. 464, §§2,6]

(a) Created. The department of building inspection of the city is hereby created.

(b) Building Commissioner generally.

(1) *Executive.* The executive official in charge of the department of building inspection shall be known as the building commissioner.

(2) *Appointment — removal.* The building commissioner shall be appointed by the mayor and the board of aldermen and he shall not be removed from office except for cause and after full opportunity has been granted him to be heard on specific and relevant charges by and before the mayor and the board of aldermen.

(3) *Qualifications.* To be eligible for appointment, the building commissioner shall have had at least three years of building or related experience.

(4) *Liability.* The building commissioner shall not be liable personally and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his official duties.

(5) *Code of ethics.* The building commissioner shall conduct his official duties in conformance with the Building Official and Code Administrators Code of Ethics at all times.

(6) *Official badge.* He may adopt a badge of office for himself and assistants which shall be displayed for the purpose of identification.

(7) *Jurisdictional cooperation.* The assistance and cooperation of police, fire and health departments and all other officials shall be available to him as required in the performance of his duties.

(c) *Organization.* The building commissioner shall appoint such number of inspectors and other employees as shall be necessary for the administration of the building regulations as authorized by the appointing authority.

(d) *Official Records.* An official record shall be kept of all business and activities of the department specified in the provisions of this article and all such records shall be open to public inspection at all appropriate times.

Section 5-3. Powers and Duties of Building Commissioner Generally. [Ord. No. 464 §§3, 4, 6]

(a) The building commissioner is hereby charged with the responsibility of enforcing the city zoning ordinances as amended. The building commissioner is hereby authorized to immediately order correction or ceasing of an unlawful use which violates any of the provisions of the zoning ordinances, as amended, of the city.

(b) The building commissioner shall enforce all of the provisions of the building regulations and shall act on any question relative to the mode or manner of construction and materials to be used in the erection, addition to, alteration, repair, removal, demolition, installation of service equipment and the location, use, occupancy and maintenance of all buildings and structures.

(c) The building commissioner shall enforce all codes related to buildings and structures as may be adopted including, but not limited to the Building Code, Plumbing Code, Electrical Code, One and Two Family Dwelling Code, Mechanical

Code and Housing Code. The building commissioner is hereby empowered to enforce all such codes when legally adopted.

(d) The building commissioner is hereby empowered to require all necessary and reasonable structural and fire safety requirements as recommended by the city engineer.

(e) The building commissioner shall:

(1) Receive applications for building permits, occupancy permits and mechanical permits.

(2) Review plans submitted by applicants for compliance with all zoning laws and ordinances, Building Codes, the Plumbing Code, Electrical Code and other Codes.

(3) Issue building permits, occupancy permits and mechanical permits.

(4) Issue notices and orders to remove illegal or unsafe conditions.

(5) Make on site inspections as he deems necessary.

(6) Conduct research and investigations of new developments of methods and materials in the building industry and accept such new developments when determined to be acceptable.

(f) The Building Commissioner may order that a structure be removed when construction has been abandoned for two (2) years or more, for which a lawful building permit has been issued, when deemed to be a nuisance and hazard to the health, safety and general welfare of the residents of the City, in accordance with the provisions of Article II of this Chapter.

(g) The Building Commissioner shall serve as the plumbing supervisor and road inspection supervisor and as such shall direct the functions of the respective departments. The Building Commissioner while serving as the plumbing supervisor and road inspection supervisor is hereby empowered to enforce the regulations affecting that respective construction.

(h) The Building Commissioner is hereby empowered to promulgate rules and regulations deemed necessary in the interest of public safety, health and general welfare, to interpret and implement the provisions of the building regulations.

(i) In the discharge of his duties, the Building Official or his authorized representative shall have the authority to enter at any reasonable hour any building, structure or premises in the jurisdiction to enforce the provisions of the regulations and Codes.

Section 5-3.1. Inspections. [Ord. No. 464 §17; Ord. No. 709 §§1, 2]

(a) Before issuing a permit, the Building Commissioner may examine all buildings, structures and sites for which a permit application has been filed.

(b) The Building Commissioner shall conduct inspections from time to time as he deems necessary.

(c) Work shall not proceed beyond the point indicated by the Building Commissioner.

(d) No reinforcing steel or structural framework or any part of any building or structure shall be covered or concealed in any manner whatever without first obtaining the approval of the Building Commissioner.

(e) In no event shall construction continue beyond the stage of footings and/or foundations being poured until such time as a site inspection survey, performed by a licensed surveyor, is filed with the Building Commissioner. Such survey shall include the position of footings and/or foundation.

Section 5-3.1.1. Inspection of Multi-Family Structures. [Ord. No. 1329 §1, 12-2-1997]

Prior to a change of tenancy of any multi-family structure containing two (2) or more units, in addition to any inspections performed in conformance with the City's Exterior Appearance Code as set forth in Chapter 5, Article III, an interior occupancy inspection shall be performed. All provisions relating to administration, definitions, general requirements, specific requirements, standards, enforcement, penalties and appeals are set forth in a document which is known as the City of Eureka Multi-Family Occupancy Inspection Code.

Section 5-3.1.2. Inspection of Commercial and Industrial Structures. [Ord. No. 1340 §1, 2-17-1998]

Prior to a change of tenancy or ownership of any commercial or industrial structure, in addition to any inspections performed in conformance with the City's Exterior Appearance Code as set forth in Chapter 5, Article III, an interior occupancy inspection shall be performed. All provisions relating to administration, definitions, general requirements, specific requirements, standards, enforcement, penalties and appeals are set forth in a document which is known as the City of Eureka Commercial and Industrial Structure Occupancy Inspection Code.

Section 5-3.2. Variations and Modifications. [Ord. No. 464 §5]

(a) When there are practical difficulties involved in carrying out structural or mechanical provisions of the building regulations or of any approved rule, the Building Official may vary or modify such provisions upon application of the owner or his representative; provided, that the spirit and intent of the law shall be observed and public welfare and safety be assured.

(b) The application for modification and the final decision of the Building Official shall be in writing and shall be officially recorded with the application for the permit in the permanent records of the department of building inspection.

Section 5-3.3. Appeals from Decisions. [Ord. No. 464 §21]

Anyone aggrieved by any order, notice, rule or regulation issued or promulgated by the Building Commissioner may appeal same directly to the Board of Aldermen; provided, that such appeal is made in writing.

The Building Commissioner shall immediately forward such appeal and all information regarding such appeal to the Board of Aldermen. The decision of the Board of Aldermen shall be final and may overrule the order, notice, rule or regulation of the Building Commissioner; except, that such decision of the Board of Aldermen shall be subject to court review.

Division 2

Adoption of Codes [1]

Section 5-3.4. Building Codes Adopted. [Ord. No. 912 §2; Ord. No. 1260 §§1 — 2, 10-15-1996; Ord. No. 1312 §§1 — 2, 10-7-1997; Ord. No. 1449 §1, 4-18-2000; Ord. No. 1491 §1, 10-17-2001; Ord. No. 1515 §§1 — 2, 3-6-2001; Ord. No. 1604 §1, 4-2-2002; Ord. No. 1734 §1, 11-18-2003; Ord. No. 1839 §1, 7-19-2005; Ord. No. 1866 §1, 10-18-2005; Ord. No. 1944 §1, 9-19-2006; Ord. No. 2141 §1, 10-19-2010]

(a) The St. Louis County Existing Building Code as approved on July 21, 2010 by St. Louis County Ordinance Number 24,444, the St. Louis County Mechanical Code as approved on July 21, 2010 by St. Louis County Ordinance Number 24,444, the St. Louis County Plumbing Code as approved on July 21, 2010 by St. Louis County Ordinance Number 24,444, the St. Louis County Electrical Code as approved on July 21, 2010 by St. Louis County Ordinance Number 24, 444 and the St. Louis County Explosives Code as approved on November 6, 1997 by St. Louis County Ordinance Number 18,693 are hereby adopted as the Existing Building, Mechanical, Plumbing, Electrical and Explosives Codes of the City of Eureka, Missouri, under certain conditions as fully set forth in a contract agreement between the City of Eureka and St. Louis County. The Mayor or City Administrator is hereby authorized to enter into a contract agreement with St. Louis County for the provision of intergovernmental services pursuant to the contract agreement on file in the City offices and incorporated herein as if fully set forth.

(b) The International Building Code, 2009 Edition, with amendments on file with the Building Commissioner's office, is hereby adopted as the Commercial and Industrial Building Code of the City of Eureka.

Section 5-3.5. One- and Two-Family Dwelling Code. [Ord. No. 1102[2] §1 — 2, 5-17-1994; Ord. No. 1604 §1, 4-2-2002; Ord. No. 1866 §2, 10-18-2005; Ord. No. 2141 §1, 10-19-2010]

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[1]. **Editor's Note — Ord. no. 1260 §§1 — 2, adopted October 15, 1996, enacted new building code provisions as set out in §5-3.4. Sections 5-3.6, 5-3.7.1 and 5-3.7.1.1 were hereby superseded, these sections formerly derived from ord. no. 896 §1, ord. no. 897 §1, ord. no. 899 §2, ord. no. 1094 §§1 — 2, 4-5-1994, and ord. no. 1136 §§1 — 2, 11-1-1994. At the editor's discretion, we have left the abovementioned sections "reserved" for future use by the city. Editor's Note — The code enforcement contract with St. Louis County as last amended by ord. no. 2033 adopted March 5, 2008, is on file in the city offices.**

[2]. **Editor's Note — Ord. No. 1102 §1, repealed previous §5-3.5 setting out the new provisions above. Former §5-3.5 derived from ord. no. 911 §2.**

The International Residential Code, 2009 Edition, with amendments on file with the Building Commissioner's office, is hereby adopted herein by reference as if fully set forth, and shall regulate the fabrication, erection, construction, enlargement, alteration, repair, location and use of one- and two-family dwellings, their appurtenances and accessory structures in the City.

Section 5-3.6. Structures — Prohibited Materials. [Ord. No. 1884 §1, 1-3-2006]

No materials may be utilized in the construction of structures within the City that are pervious to gaseous material in such a manner so as to require any continuous or periodic mechanized or pressurized means of introducing any gaseous material into such structure to maintain or restore its designed shape, height, width or function. This Section is not intended to prohibit cold air inflatable promotional devices as may be authorized in Chapter 19A.

Section 5-3.7. Professional Engineer Prepared Plans and Plats Required. [Ord. No. 1887 §1, 1-3-2006; Ord. No. 1899 §1, 3-21-2006[3]]

Plans and plats submitted to the City for legislative consideration as well as those depicting any design elements which may require structural or civil review must be prepared and sealed by a professional engineer. An exception to this requirement for site plan submittals may be considered and approved by the Building Commissioner or City Administrator, if a determination is made that such site plan is prepared to proper scale, accurately and adequately depicts all required elements and is otherwise prepared in a manner that allows for proper review.

Section 5-3.7.1. (Reserved) [4]

Section 5-3.7.1.1. (Reserved) [5]

Section 5-3.7.2. Seismic Design — Earthquake Preparedness. [Ord. No. 981 §§1 — 3, 12-18-1990]

(a) Any new construction or major structural renovation begun after January 1, 1991, all buildings for which leases are executed by political subdivisions of the State after January 1, 1994, and all buildings for which leases are executed by the State or any institution of higher education after January 1, 1994, shall comply with the "Standards for Seismic Design and Construction" of the Building Officials and Code Administrator's Code or of the Uniform Building Code.

(b) This Section shall not apply to any building owned by the State, any institution of higher education, any political subdivision upon which construction was begun or

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[3]. **Editor's Note — Ord. No. 1604 §2, adopted April 2, 2002, repealed sections 5-3.6 — 5.3.7 in their entirety. Former sections 5-3.6 — 5-3.7 derived from ord. no. 464 §10; Ord. No. 676 §4; ord. no. 1382 §1, 11-3-1998. Subsequently, ord. no. 1884, 1887 and 1899 set out the new provisions above.**

[4]. **Editor's Note — See editor's note to this article.**

[5]. **Editor's note — See editor's note to this article.**

finished before December 18, 1990, any private structure with less than ten thousand (10,000) square feet in total area, or any single-family or duplex residence.

(c) As used in this Section, the term *"major structural renovation"* means any reconstruction, rehabilitation, addition or other improvement of an existing structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the major structural renovation.

Division 3
Permits Generally

Section 5-3.8. Generally. [Ord. No. 464, §§11,12; Ord. No. 676, §5.; Ord. No. 1259 §1, 10-15-1996]

(a) It shall be unlawful to construct, enlarge, alter or demolish a structure or change the nature or type of occupancy of a building or structure requiring greater strength, exitway or sanitary provisions or to change to a prohibited use or to install or alter any equipment for which provision is made or the installation of which is regulated by code, ordinance or regulation, without first filing an application with the building official in writing and obtaining the required permit therefor; except, that ordinary repairs, as defined in section 104.0 of the BOCA National Building Code and Section R-110 of the CABO 1 and 2 Family Dwelling Code, which do not involve any violation of the codes shall be exempt from this provision.

(b) The building official shall attach his signature to every permit or he may authorize a subordinate to affix such signature thereto.

(c) The building official may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building or structure have been filed complying with all the pertinent requirements of this Code. The holder of such permit for the foundations or other parts of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

(d) This Code shall not require changes in the plans, construction or designated use of a building for which a lawful permit has been heretofore issued or otherwise lawfully authorized and the construction of which shall have been actively prosecuted within ninety days after the effective date of this article and completed with dispatch.

(e) At least twenty-four hours notice of start of work under a building permit shall be given to the building official.

(f) It shall be unlawful to occupy or use a structure for which a building permit has been issued unless and until an occupancy permit has been issued by the Building Commissioner. A conditional occupancy permit may be issued by the Building Commissioner upon application, provided the structure or portion thereof may be safely occupied or used. In the event minor site improvements are not completed,

they may be required as a condition of the permit to be completed post-occupancy. In the event major site improvements are not complete, occupancy may be withheld, or a suitable bond may be provided by the applicant for all incomplete improvements. Any costs to the city associated to the review and acceptance of a bond or occupancy permit shall be borne by the applicant.

Section 5-3.8.1. Building to Offer Automatic Fire Sprinkler Systems. [Ord. No. 2100 §1, 9-15-2009]

A builder of single-family dwellings or residences or multi-unit dwellings of four (4) or fewer units shall offer to any purchaser on or before the time of entering into the purchase contract the option, at the purchaser's cost, to install or equip fire sprinklers in the dwelling, residence or unit. The provisions of this subsection shall expire on December 31, 2011.

Section 5-3.9. Applications. [Ord. No. 464, §§11-13]

(a) *Form.* The application for a permit shall be submitted in such form as the building official may prescribe and shall be accompanied by the required fees.

(b) *By Whom Made.* Application for a permit shall be made by the owner or lessee of the building or structure or agent of either or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(c) *Description of Work.* The application shall contain a general description of the proposed work and its location, the uses and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building or structure and such additional information as may be required by the building official.

(d) *Contents.*

(1) The application for the permit shall be accompanied by not less than two copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. When the quality of materials is essential for conformity to this Code, specific information shall be given to establish such quality; and the Codes shall not be cited or the term "legal" or its equivalent be used, as a substitute for specific information. The building official may waive the requirement for filing plans when the work involved is of minor nature.

(2) There shall also be filed a plot plan showing to scale the size and location of all new construction and all existing structures on the site, distances from lot

lines and the established street boundary line survey. In case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site or plot.

(2) A lot or plot shall not be changed, increased or diminished in area from that shown on the official plot plan, unless a revised diagram showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved; except, that such revised plot plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.

(3) The building official may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the engineer or architect responsible for the design. Plans for a building more than two stories in height shall indicate how required structural and fire resistance rating integrity will be maintained and where a penetration will be made for electrical, mechanical, plumbing and communication conduits, pipes and systems.

(e) *Amendments.* Subject to the limitations of section 5-3.2, amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued and such amendments shall be deemed part of the original application and shall be filed therewith.

(f) *Time Limitation.* An application for a permit for any proposed work shall be deemed to have been abandoned six months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except, that for reasonable cause, the building official may grant one or more extensions of time for additional periods not exceeding ninety days each.

(g) *Action on Application.* The building official shall examine or cause to be examined all applications for permits and amendments thereto within reasonable time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, he shall reject such application in writing, stating the reasons therefor. If he is satisfied that the proposed work conforms to the requirements of the codes and all laws and ordinances applicable thereto, he shall issue a permit therefor as soon as practicable.

Section 5-3.10. Payment of Fees Prerequisite to Issuance. [Ord. No. 464, §§13,16]

A permit shall not be issued until the fees prescribed in division 4 of this article have been paid.

Section 5-3.11. Posting. [Ord. No. 464, §12]

A true copy of the building permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work and until the completion of the same.

Section 5-3.12. Disposition of Approved Plans. [Ord. No. 464, §12.; Ord. No. 2149 §1, 12-7-2010]

The building official shall stamp or endorse in writing both sets of corrected plans "Reviewed For Code Compliance" and one (1) set of such approved plans shall be retained by him and the other shall be kept at the building site, open to inspection of the building official or his authorized representative at all reasonable times.

Section 5-3.13. Compliance of Work. [Ord. No. 464, §13]

(a) The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of the codes, except as specifically stipulated by modification or legally granted variation as described in the application.

(b) All work shall conform to the approved application and plans for which the permit has been issued and any approved amendments thereto.

(c) All new work shall be strictly in accordance with the approved plot plan.

Section 5-3.14. Suspension and Revocation. [Ord. No. 464, §12.; Ord. No. 2149 §2, 12-7-2010]

(a) Any permit issued shall become invalid if the authorized work is not commenced within one hundred eighty (180) days after issuance of the permit or if the authorized work is suspended or abandoned for a period of one hundred eighty (180) days after the time of commencing work or if a period of one hundred eighty (180) days has elapsed since the last approved inspection.

(b) The building official may revoke a permit or approval issued under the provisions of this Code in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

Division 4
Fees

Section 5-3.15. New Construction. [Ord. No. 464, §16; Ord. No. 616, §1]

The building permit fee for all new construction and industrialized dwellings shall be assessed at three cents per square foot area of construction. This assessment figure shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall not be further adjusted during the course of the

year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

The square foot area of construction shall be determined by measuring the length of the structure and multiplying it by the width of the structure. The measurement shall include garages and the farthest projections, overhangs and cantilevers from the ground to the top of the construction. It shall not include unroofed or unenclosed porches or patios.

Section 5-3.16. Additions, Alterations or Remodeling. [Ord. No. 464, §16; Ord. No. 676, §6; Ord. No. 1622 §1, 8-6-2002]

The building permit fee for additions, alterations and remodeling shall be based on the value of construction in accordance with the following table:

$500 to $1,000	$5.00
each additional $1,000 or fraction	$2.00

The value of construction shall be determined by the Building Commissioner, based on any or all of the following:

(a) The estimated construction cost provided by the applicant;

(b) Valuation tables provided by BOCA with modifiers to the St. Louis area;

(c) Cost for similar construction projects; or

(d) Cost estimates on a component basis developed by the Building Commissioner.

Valuation information shall be provided to the applicant and be reasonably, yet realistically, determined.

Section 5-3.17. Demolition Permits. [Ord. No. 464, §16; Ord. No. 616, §1.; Ord. No. 1073 §1, 10-5-1993]

The demolition permit shall be twenty-five dollars ($25.00) per structure. This fee shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the periods of 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty - cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

Section 5-3.18. (Reserved)

[Repealed by Ordinance No. 676, §7]

Section 5-3.19. Inspections. [Ord. No. 464, §16; Ord. No. 616, §1.; Ord. No. 1073 §2, 10-5-1993]

In addition to the building permit fee, an inspection charge of five dollars ($5.00) shall be paid to the city for each inspection deemed necessary by the Building Commissioner. The number of inspections required shall be determined after the review of the plans submitted and the number shall be indicated on the building permit application. This fee shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

Section 5-3.19.1. Reinspection Charge. [Ord. No. 1073 §4, 10-5-1993; Ord. No. 1592 §1, 2-19-2002; Ord. No. 2149 §3, 12-7-2010]

(a) There is hereby established a reinspection charge of twenty dollars ($20.00), which shall be applicable to building reinspections, where it has been determined that the initial inspection resulted in a failure to comply with the applicable construction code. The permit applicant shall be responsible for the payment of such reinspection charge which shall be payable within thirty (30) days of the inspection, after which such charge shall be considered overdue. No permits shall be issued to an applicant who has not remitted payment to the City for any overdue reinspection charges.

(b) All assessed reinspection fees must be paid prior to the request for a final inspection.

Section 5-3.20. Additional Costs. [Ord. No. 464 §16; Ord. No. 1086 §2, 2-15-1994; Ord. No. 1373 §1, 9-1-1998]

(a) In addition to the building permit fee and inspection fees, all reasonable costs or fees charged to the City such as site and building plan review, inspection and permit fees, testing fees and the like, when deemed necessary by the Building Commissioner or City Administrator, shall be paid by the applicant before issuance of the building permit.

(b) A plan review escrow procedure is hereby authorized to be formulated, implemented and amended by City staff to help ensure that all such costs charged to the City are recovered from applicants.

(c) In the event that the City receives an application, petition or other request for any administrative or legislative consideration, and the applicant, petitioner or request or owes the City any amounts from previous City consideration including any third (3rd) party expenses the City has incurred, the City reserves the right to refuse to

give any consideration to such application, petition or request until such time that the City has received payment in full or payment terms acceptable to the City.

Section 5-3.21. Doubling. [Ord. No. 464, §16]

The building permit fees provided for in sections 5-3.15, 5-3.16 and 5-3.17 above shall be doubled where work for which a building permit is required in section 5-3.8 is commenced prior to obtaining the permit or filing of the application. The payment of such double fees shall not relieve any person from fully complying with all provisions regulating such construction.

Section 5-3.22. Refunds. [Ord. No. 464, §16]

The Building Commissioner may cancel permits and refund the permit fee less a maximum penalty of five dollars or such lesser amount as the Building Commissioner shall set.

Section 5-3.23. Connections to Water or Sewer Systems. [Ord. No. 464, §16]

Where connection to the city sanitary sewer or water system is to be made, the Building Commissioner shall charge the required connection fees as provided for by ordinance.

Section 5-3.24. Mechanical Permits and Inspections. [Ord. No. 908, §2]

(a) Buildings other than single-family residences shall be required to obtain a mechanical permit for each mechanical device provided for in the BOCA Basic Mechanical Code, 1987 edition.

(b) There is hereby established a fee structure to be paid as a condition precedent to the issuance of permits for mechanical systems and equipment.

(c) The inspection fee for mechanical systems and equipment to be installed in new construction, restructured and/or remodeled buildings, shall be fifteen dollars ($15.00) per item.

(d) The inspection fee for periodic inspections for mechanical systems and equipment already in place shall be ten dollars ($10.00) per item.

Section 5-3.24.1. Building Permit Review, Issuance and Inspections Amusement Ride Inspection Services. [Ord. No. 1091 §1, 3-1-1994]

The Mayor or City Administrator is hereby authorized to enter into an agreement with St. Louis County for the following purposes pursuant to an agreement which is on file in the City Clerk's office and incorporated herein as if fully set forth:

(a) Selective commercial and industrial zoning district building plan review, permit issuance and inspection services.

(b) Mechanical division inspection services for all fixed and portable amusement rides.

Section 5-3.24.2. Deposit Required for New Residential Building Permit — Legends, Legends South, Etc. [Ord. No. 1609 §2, 5-21-2002]

Any person or entity submitting an application for a building permit for a new residential structure within the Legends, Legends South or any additions thereto shall deposit therewith, in addition to any other fees required, the sum of one thousand dollars ($1,000.00) which shall be deposited into an interest-bearing account to be held by the City for use by the Legends Homeowners' Association for actual repairs to Legends Parkway.

Section 5-3.24.3. Private Sector Inspection Services — Governmental Entities. [Ord. No. 2128 §1, 6-15-2010]

As approved by the city, a governmental entity may propose to utilize a private sector inspection firm in addition to or in lieu of city of Eureka or St. Louis County inspection services. Such firm must be city-engaged and the permit applicant shall be responsible for any costs incurred in connection with the inspection firm's services.

Division 5
Demolition or Removal Generally

Section 5-3.25. Restoration of Premises. [Ord. No. 464, §15]

Whenever a structure is demolished or removed the premises shall be maintained free from unsafe or hazardous conditions by the proper regulations of the lot, restoration of established grades and the erection of the necessary retaining walls and fences in accordance with the provisions of article 13 of the Building Code.

Section 5-3.26. Demolition of Structures Generally. [Ord. No. 464 §14; Ord. No. 650 §1]

Before a structure can be demolished or removed, the owner or agent shall notify all utilities having service connections within the structure such as water, electric, gas, sewer and other connections. A permit to demolish or remove a structure shall not be issued until a release is obtained from the utilities, stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

Demolition work shall be diligently and continuously pursued until the demolition work is completed, once started. Demolition permits may be issued by the Building Commissioner for a period of thirty days. The Building Commissioner may grant a thirty-day extension of time for demolition permits for cause, when such extension request is made in writing. Any further extension of time beyond sixty days is subject to review and approval by the board of aldermen. All demolition sites shall be kept in a reasonably safe condition during the demolition process and be properly posted and barricaded. Unsafe conditions, as determined by the Building Commissioner, left in such manner for five consecutive days, shall be prosecuted in accordance with division 6 of article I herein.

Section 5-3.27. Removal of Structures Generally. [Ord. No. 464, §15]

Only when written notice has been given by the applicant to the owner of adjoining lots and to the owners of wired or other facilities of which the temporary removal may be necessitated by the proposed work, shall a permit be granted for the removal of a building or structure.

Division 6
Violations

Section 5-3.28. Notice. [Ord. No. 464, §18]

The Building Commissioner shall serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, removal, demolition, use or occupancy of a building or structure in violation of the provisions of this Code or in violation of detail statement or a plan approved thereunder or in violation of permit or certificate issued under the provisions of the Codes. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

Section 5-3.29. Prosecution. [Ord. No. 464, §18]

If the notice of violation is not complied with promptly, the building official shall request the legal counsel of the jurisdiction to institute the appropriate proceedings at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of the Codes or of the order or direction made pursuant thereto.

Section 5-3.30. Abatement Generally. [Ord. No. 464, §18]

The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation or to stop an illegal act, conduct, business or use of a building or structure in or about any premises.

Section 5-3.31. Emergency Measures. [Ord. No. 464, §20]

(a) *Vacating Structures.* When, in the opinion of the building official, there is actual and immediate danger of failure or collapse of a building or structure or any part thereof which would endanger life or when any structure or part of a structure has fallen and life is endangered by the occupation of the building or structure, the building official is hereby authorized and empowered to order and require the inmates and occupants to vacate the same forthwith. He shall cause to be posted at each entrance to such building a notice reading as follows: "This structure is unsafe and its use or occupancy has been prohibited by the building official, and it shall be unlawful for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the same."

(b) *Temporary Safeguards.* When, in the opinion of the building official, there is actual and immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, he shall cause the necessary work to be done to

render such building or structure or part thereof temporarily safe, whether or not the legal procedure herein described has been instituted.

(c) *Closing Streets.* When necessary for the public safety, the building official may temporarily close sidewalks, streets, buildings and structures and places adjacent to such unsafe structure and prohibit the same from being used.

(d) *Emergency Repairs Generally.* For the purpose of this section, the building official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(e) *Costs of Emergency Repairs.* Costs incurred in the performance of emergency work shall be paid from the treasury of the jurisdiction on certificate of the building official; and the legal authority of the jurisdiction shall institute appropriate action against the owner to recover such costs.

Section 5-3.32. Stop-Work Orders. [Ord. No. 464, §19]

(a) *Notice to Owners.* Upon notice from the building commissioner that work on any building, structure, device or road is being prosecuted contrary to the provisions of the Codes or regulations controlling such construction, or in an unsafe or dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved or the owner's agent or to the person doing the work and shall state the conditions under which work may be resumed.

(b) *Unlawful Continuance.* Any person who shall continue any work in or about the structure after having been served with a stop-work order, except such work as he is directed to perform to remove a violation or unsafe condition, shall be liable to a fine not less than ten dollars nor more than five hundred dollars.

Section 5-3.33. Penalties Generally. [Ord. No. 464, §§18,22]

Any person who shall violate a provision of this article or the Codes or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the building official or of a permit or certificate issued under the provisions of the Codes, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars, or by imprisonment not exceeding six months or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

ARTICLE II
Dangerous and Unsafe Buildings

Section 5-4. Title of Article. [Ord. No. 349, §1]

These regulations shall be known as the "Dangerous and Unsafe Structure Ordinance" of the city.

Section 5-5. Purpose and Scope of Article. [Ord. No. 349, §2]

It is the purpose of this article to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures which may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this article shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter exist in the city.

Section 5-6. "Dangerous Buildings" Defined. [Ord. No. 349, §3]

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings".

(a) Those whose interior walls or other vertical structural members lift, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(b) Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members, or fifty percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.

(c) Those which have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

(d) Those which have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the city.

(e) Those which are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.

(f) Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live herein.

(g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.

(h) Those which have parts thereof which are so attached that they may fall or injure members of the public or property.

(i) Those which because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this city.

Section 5-7. Declared Nuisance. [Ord. No. 349, §4]

All dangerous buildings within the terms of section 5-6 are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided herein.

Section 5-8. Standards for Repair, Vacation or Demolition. [Ord. No. 349, §5]

The following standards shall be followed in substance by the building commissioner and the board of aldermen, in ordering repair, vacation or demolition of any dangerous building:

(a) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.

(b) If the dangerous building is in such condition as to made it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.

(c) In all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished.

(d) In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this article or any ordinance of this city or statute of the state, it shall be repaired or demolished.

Section 5-9. Duties of Building Commissioner. [Ord. No. 349, §6]

The building commissioner shall have the duty under this article to:

(a) 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 which render such places a dangerous building when he has reasonable grounds to believe that any such building is dangerous.

(b) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article, and the building commissioner shall determine if there are reasonable grounds to believe that such building is dangerous.

(c) Inspect any building, wall or structure reported by fire or police departments of this city as probably exiting in violation of this article.

(d) Notify in writing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, it may be had by publication for two successive weeks in a newspaper qualified to publish legal notices, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the county, of any building found by him to be a dangerous building within the standards set forth in section 5-6.

(d) The notice required shall state that (1) the owner must repair, vacate and repair or vacate and demolish such building in accordance with the terms of the notice and this article; (2) the occupant or lessee must vacate such building or have it repaired in accordance with the notice and remain in possession; (3) the mortgagee, agent or other persons having an interest in such building as shown by the land records of the recorder of deeds of the county wherein the land is located, may, at his own risk, repair, vacate or demolish or have such work done; provided, that any person

notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time not exceeding thirty days to commence the required work unless in the judgment of the building commissioner it is determined to be necessary to extend such time to commence the work. A reasonable time for completion of such work shall be determined by the building commissioner.

(e) The notice provided for in this section shall state a description of the building or structure deemed dangerous, a statement of the particulars which make the building or structure a dangerous building and an order requiring the designated work to be commenced within the time, or extension thereof, provided for in the above subsection.

(f) Report in writing to the board of aldermen the noncompliance with any notice to vacate, repair or demolish.

(g) Appear at all hearings conducted by the board of aldermen and testify as to the condition of dangerous buildings.

(h) Immediately report to the board of aldermen concerning any building found by him to be inherently dangerous and which he determines to be a nuisance per se. By resolution, the board of aldermen may direct that such building be marked or posted with a written notice reading substantially as follows:

"This building has been found to be a dangerous building by the building commissioner. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the recorder of deeds of St. Louis County. It is unlawful to remove this notice until such notice is complied with."

Provided, however, that the adoption of such a resolution by the board of aldermen and the posting of such notice shall not be construed to deprive all persons entitled thereto by this article to the notice and hearing prescribed herein.

Section 5-10. Duties and Powers of Board of Aldermen. [Ord. No. 349 §7]

The board of aldermen shall have the power pursuant to this article to:

(a) Supervise all inspections required by this Article, and cause the Building Commissioner to make inspections and perform all the duties required of him by this Article. Upon receiving a complaint or report from any source, that a dangerous building exists in the City, it shall cause an inspection to be made forthwith. If it deems it necessary to the performance of its duties and responsibilities imposed herein, it may request an inspection and report be made to it by any other City department or retain services of an expert whenever it deems such service necessary.

(b) Upon receipt of a report of the Building Commissioner, give written notice either by personal service or by certified mail, return receipt requested, or by publication for two (2) successive weeks, in a newspaper qualified to publish legal notices, at

least twenty-one (21) days in advance of a hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in such building as shown by the land records of the Recorder of Deeds of the County wherein the land is located, to appear before it on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Commissioner's notice provided for herein.

(c) Upon receipt of a report of the Building Commissioner and after having given the notice required, the Board of Aldermen shall hold a hearing and hear such testimony as the Building Commissioner and the owner, occupant, mortgagee, lessee or any other person having an interest in such building as shown by the land records of the Recorder of Deeds of the County wherein the land is located, shall offer relative to the dangerous building. A record of testimony at the hearing shall be made.

(d) Make written findings of fact from the evidence offered at such hearing as to whether or not the building in question is a dangerous building within the terms of Section 5-6 hereof.

(e) If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the Board of Aldermen shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other persons having an interest in such building as shown by the land records of the County wherein the land is located, to repair, vacate or demolish any building found to be a dangerous building; provided, that any person so notified shall have the privilege of either repairing or vacating and repairing such building, if such repair will comply with the ordinances of this City or the owner or any person having any interest in such building as shown by the land records of the County wherein the land is located may vacate and demolish such dangerous building at his own risk to prevent the acquiring by the City of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.

(f) If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the Board of Aldermen shall cause building or structure to be repaired, vacated or demolished as the facts may warrant; and the Board of Aldermen shall certify the charge for such repair, vacation or demolition to the City Clerk as a special assessment represented by a special tax bill against the real property affected; such tax bill shall be a lien upon such property and be enforced to the same extent and in the same manner as all other special tax bills. At the request of the taxpayer, this special tax bill may be paid in installments over a period of not more than ten (10) years; such assessment shall bear interest at the rate of eight percent (8%) per annum until paid.

Section 5-11. Appeal. [Ord. No. 349 §8]

Any owner, occupant, lessee, mortgagee, agent or any other person having an interest in a dangerous building as shown by the land records of the Recorder of Deeds of the County wherein the land is located, may, within thirty (30) days from the receipt of the order of the Board of Aldermen, appeal such decision to the Circuit Court of the County wherein the land is located, pursuant to the procedure established in Chapter 536 of the Revised Statutes of Missouri.

Section 5-12. Emergencies. [Ord. No. 349 §9]

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building as defined herein is immediately repaired, vacated or demolished, the Building Commissioner shall report such facts to the Board of Aldermen, and the Board of Aldermen, by resolution, may cause the immediate boarding up of all openings, repair, vacation or demolition of such dangerous building. The costs of such emergency boarding up, repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section 5-10, Subsection (f).

Section 5-13. Authority for Article. [Ord. No. 349 §15]

This Article is enacted pursuant to authority granted in Section 67.400 et seq., of the Revised Statutes of Missouri, 1969.

ARTICLE III
External Appearance Code [6]

Section 5-14. Definitions. [Ord. No. 604 §1; Ord. No. 677 §1]

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ACCESSORY STRUCTURE — A detached structure subordinate to the main or principal structure and located on the same lot, the use of which is customary to the main building.

BUILDING — Any structure designed for occupancy as a residence or as a business, including residential mobile homes located within an approved mobile home trailer coach park.

Section 5-15. Minimum Standards — Buildings or Structures. [Ord. No. 604, §1; Ord. No. 677, §2; Ord. No. 1979 §1, 6-19-2007]

(a) *Foundations.* Every foundation shall be reasonably weathertight, rodent-proof and shall be kept in good repair. The foundation elements shall adequately support the building at all points.

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6. **Cross References — As to inspections of multi-family structures, see §5-3.1.1; as to inspection of commercial and industrial structures, see §5-3.1.2.**

(b) *Walls.* Every exterior wall shall be free of holes, breaks, loose or rotting siding and any other conditions which might admit rain or dampness to the interior portions of the walls or structure. All exterior surface material shall be kept in good repair.

(c) *Windows, Doors and Hatchways.* Every window, exterior door and basement hatchway shall be substantially tight and shall be kept in sound condition and repair. Every window sash and door shall fit reasonably tight within its frame and shall be properly hinged. Every window shall be fully supplied with panes, or a rigid translucent substitute, free of cracks or holes. Screens, if installed, shall be kept in good repair.

(d) *Stairways and Porches.* Every exterior stairway and every porch shall be kept in safe condition and sound repair. Every exterior flight of stairs and every porch floor shall be free of deterioration. Every porch rail and balustrade shall be firmly fastened and maintained in good condition. No flight of stairs shall have rotting, loose or deteriorating supports. No porch shall have rotting, loose or deteriorating supports or floors.

(e) *Chimneys and Flues.* Any brick, masonry or other structural chimney or flue and any attached accessories shall be kept in sound repair.

(f) *Gutters.* Every main structure shall be guttered when appropriate and with ample downspouts, properly positioned and in good repair.

(g) *Roof.* All roofs shall be sufficiently waterproof, weatherproof and fitted to exclude the entrance of rain, rodents, birds and other impediments to the maintenance of interior health and safety. All surface materials shall be kept in good repair.

(h) *Accessory Structures.* All accessory structures shall be maintained in good condition and shall be compatible with their intended use.

(i) *Fixtures and Hardware.* Fixtures, including awnings, shutters and the like, shall be maintained in good condition.

(j) *Exterior Surfaces.* All exterior material coatings, where appropriate, shall be properly applied and maintained.

(k) *Mobile Homes.* Every mobile home shall be securely tied down in an approved manner. Every mobile home shall be entirely underskirted. Every mobile home exterior shall be free of major dents or scratches and fading or peeling paint. Every mobile home roof shall be watertight.

(l) *Awnings and Awning Support Structures.* Awnings must be properly and completely secured to awning support structures and maintained so as to be free of tears, holes, warping, severe fading or defacement. Awning support structures must be covered by an awning at all times and maintained so as to be structurally sound and not present a public safety hazard.

Section 5-16. Same — Grounds. [Ord. No. 604, §1]

Every yard, court, vent passageway, driveway, sidewalk and other portion of the lot on which the dwelling stands shall be free of debris, weeds and other safety hazards, graded and drained so as to prevent the accumulation of stagnant water on any such surface. Driveways and sidewalks shall be maintained in good repair.

Gravel from gravel driveways must be retained in the driveways and kept clear of sidewalks and streets.

Section 5-17. Certificate of Compliance Required. [Ord. No. 2175 §1, 6-21-2011]

On change of ownership excepting newly constructed structures for which an occupancy permit has been issued upon completion of construction of a structure and issued within a thirty (30) day period prior to ownership change, it shall be unlawful for any person to hereafter occupy or any owner or agent thereof to permit the occupancy of any building or addition thereto, or part thereof, for any purpose until a Certificate of Exterior Appearance Compliance has been issued by the Building Department. The Certificate of Exterior Appearance Compliance shall state that the premises complies with all provisions of this Article.

Where there is a change in ownership of a building, the seller or the seller's agent shall complete the Application for Certificate of Exterior Appearance and shall pay an inspection fee of ten dollars ($10.00).

The Certificate of Exterior Appearance compliance shall remain in effect for a period of six (6) months from the date of issuance.

Section 5-18. Enforcement. [Ord. No. 604, §1; Ord. No. 611, §4; Ord. No. 677, §4; Ord. No. 1075 §1, 12-21-1993; Ord. No. 2032 §1, 3-5-2008; Ord. No. 2175 §2, 6-21-2011]

It shall be the duty of the Building Commissioner to enforce the provisions of this Chapter. The Building Commissioner is authorized and directed to make exterior inspections only to determine whether buildings, structures or premises located within the City conform to the requirements of this Chapter. Inspections of property under this Article shall be made under any of the following conditions:

(a) Upon change of ownership, excepting newly constructed structures for which an occupancy permit has been issued upon completion of construction of a structure and issued within a thirty (30) day period prior to ownership change.

(b) Where there is exterior deterioration of a building.

(c) Whenever there is a change of occupancy of a mobile home pad.

For the purpose of making such inspections, the Building Commissioner or his agent is authorized to enter upon the premises to examine exterior structure and ground conditions. If it is determined that such structure does not comply with the provisions of this Article, such structure will not be permitted use of any City-owned utility service until such time that the structure does comply with all provisions of this Article.

Section 5-19. Non-Compliance — Notice of Defects. [Ord. No. 604, §1; Ord. No. 2059 §1, 8-19-2008]

Whenever the Building Commissioner determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Article, he will give notice of such alleged violation to the person responsible therefor which shall:

(a) Be in writing;

(b) Contain a statement of the reason why it is being issued;

(c) Allow a reasonable time for the performance of any act it requires;

(d) Contain a statement of the applicable procedure;

(e) Be served upon the owner or his agent, or the occupant, as the case may require. Such notice shall be deemed to be properly served upon such owner or agent, or on any occupant, if a copy thereof is:

(1) Served upon him personally; or

(2) Sent by priority mail to his last known address; or

(3) Posted in conspicuous place in or about the dwelling affected by notice; and

(4) Contains on outline of remedial action which, if taken, will effect compliance with the provisions of this Article.

Section 5-20. Same — Penalties for Failure to Remedy Defect. [Ord. No. 952, §1, 4-17-1990; Ord. No. 1076 §§1-2, 1-4-1994]

The owner of any buildings, structures or premises shall be given not less than ten (10) days nor more than thirty (30) days after the issuance of the notice in which to remedy the condition(s) therein specified; provided, however, that the Building Commissioner may, due to extenuating circumstances with which he acknowledges and agrees, extend the time for compliance with same for a period or periods not to exceed a total of one hundred eighty (180) days past the date of such initial notice issuance.

It shall be unlawful for any person to fail to comply with the terms of the notice of the violations.

It shall be the duty of the Building Commissioner to enforce this Article, and the Building Commissioner may sign and endorse external appearance code summons as part of his duty to enforce this Article.

The owner or agent of a building or premises in or upon which a violation of any provision of this Article has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which such violation has been committed or shall exist; or the owner, 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 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 ten dollars

($10.00) and not more than one hundred dollars ($100.00) for each and every day that such violation continues; but if the offense be willful, on conviction thereof, the punishment shall be a fine of not less than one hundred dollars ($100.00) or more than two hundred fifty dollars ($250.00) for each day that such violation shall continue. Any person who, having been served with an order to correct any such violation shall fail to comply with the order within thirty (30) days after such service, shall also be subject to a civil penalty of two hundred fifty dollars ($250.00).

Section 5-21. Same — Transfer of Ownership of Non-Complying Properties. [Ord. No. 2175 §3, 6-21-2011]

It shall be unlawful for the owner of any property upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the notice of violation have been complied with or until such owner shall first furnish to the grantee, transferee, mortgagee, or lessee a copy of the notice of violation issued by the Building Commissioner and shall furnish to the Building Commissioner a signed and notarized statement from the grantee, transferee, mortgagee or lessee acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such notice of violation within the period of time provided in such notice.

Section 5-22. Appeals. [Ord. No. 604, §1]

All appeals of the determination made by the Building Commissioner regarding this Article shall be heard by the Board of Adjustment.

The Board of Adjustment shall have the following jurisdiction:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Enforcement Official.

(2) To authorize a variance from the strict application of any provision of the Exterior Appearance Code where property owner can show that this would result in an exceptional practical difficulty and be a particular hardship as distinguished from a mere inconvenience to such owner, if such relief can be granted without substantial detriment to the public welfare and without substantially impairing the general purpose and intent of this Article.

Any person claiming to be aggrieved by any order, requirement, decision or determination made by the Enforcement Official hereunder, or seeking a variance from the provisions of this Article shall have the right to appeal to the Board of Adjustment. Such appeal or request for variance shall be taken within a reasonable time, as shall be prescribed by the Board by general rule, by filing with the Building Commissioner and with the Board a notice of appeal specifying the grounds thereof. Upon filing a notice of appeal or request for variance, the Enforcement Official shall forthwith submit to the Board of Adjustment all papers constituting the record upon which the action appealed from or request for variance was taken.

Appeals from the decision of the Board of Adjustment shall be as provided in Section 23- 195.

ARTICLE IV
Fences [7]

Section 5-23. Definitions. [Ord. No. 1605 §1, 4-16-2002]

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

FENCE — An assemblage of materials, including wood, metal, plastic, brick, stone, hedge row and thick growth of shrubs and the like, or combination thereof, constructed and/or allowed to grow for the purpose of separating property or for the purpose of keeping animals, persons or property contained safely within certain boundaries or property lines, or for the purpose of ornamentation.

FRONT YARD FENCE — A fence (or any portion thereof) that is located between the street right-of-way and the faces of the main building fronting same.

Section 5-24. Fence Permits. [Ord. No. 1605 §1, 4-16-2002]

A fence may be permitted by the City if the following criteria are satisfied:

(a) *Fence Permit Application.* An application shall be made to the Building Commissioner which shall include:

(1) Applicant's name and signature;

(2) Subject address;

(3) Plot plan depicting proposed location of fencing; and

(4) Pictures and/or drawings of the proposed fencing.

(b) *Application Review.* The Building Commissioner or his assigns shall make a determination based on the proposed placement or type of fence if there are additional application requirements, or if special consideration is necessary based on such proposed placement or type of fence. If the proposed fence does not have additional application or review requirements, the following criteria shall be utilized:

(1) That such fencing would not create a safety, fire or traffic hazard or other potentially injurious condition;

(2) That the materials and construction enhance the attractiveness of the property and any structures located thereon; and

(3) That the fence shall be installed with the finished side facing the neighboring property; and

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[7]. **Editor's Note — Ord. No. 1605 §1, adopted April 16, 2002, repealed Art. IV, §§5-23 — 5-28 and enacted the new provisions set out herein. Former article IV, §§5-23-5-28 derived from ord. no. 643 §1; ord. no. 1160 §§1-2, 5-2-1995; ord. no. 1223 §§1-2, 4-16-1996; ord. no. 1357 §1, 6-2-1998; ord. no. 1400 §1, 3-30-1999; ord. no. 1427 §§1-2, 10-19-1999; ord. no. 1478 §1, 9-19-2000; ord. no. 1497 §1, 11-21-2000.**

(4) That the character and appearance of the neighborhood will not be compromised.

Section 5-25. Front Yard Fences Prohibited — Generally. [Ord. No. 1605 §1, 4-16-2002]

It shall be unlawful for any person to construct any type of fence within a residentially zoned district in front yard areas except as provided in this Article. The front yard area includes the area between the structure and street right-of-way. On parcels of land that do not contain a structure, fences shall be prohibited in areas within the front yard area to the established building line for the particular zoning district.

Section 5-25.1. Same — Exceptions. [Ord. No. 1605 §1, 4-16-2002]

Front yard fencing may be permitted by the City if the following criteria are satisfied:

(a) *Application.* An application shall be made to the Building Commissioner which shall include:

(1) Applicant's name and signature;

(2) Subject address;

(3) Plot plan depicting proposed location of fencing;

(4) Pictures and/or drawings of the proposed fencing; and

(5) Locations of similar installations in the area if they are personally known to exist.

(b) *Application Review.* The Building Commissioner or his assigns shall make a determination of approval based on the following criteria:

(1) The fence shall be no greater than four (4) feet and be decorative or ornamental in nature with a design that maintains as much open space as possible and practical, and not be utilized for containment or security;

(2) The fence is constructed so as to provide enough free and clear space around all sides to allow for maintenance and repair of the fencing without requiring entry onto property not owned by the applicant. Front yard fencing may not be placed in City right-of-way, and placement over any easements is done at the applicant's risk, with such fencing being subject to removal without replacement or compensation;

(3) That such fencing would not create a safety, fire or traffic hazard or other potentially injurious condition;

(4) That the materials and construction enhance the attractiveness of the property and any structures located thereon;

(5) That the fence shall be installed with the finished side facing the neighboring property; and

(6) That the character and appearance of the neighborhood will not be compromised.

(7) In the event that the Building Commissioner is unable to reasonably make a determination as to the acceptability of a proposed front yard fence due to unusual conditions or mitigating circumstances, he shall refer same to the Planning and Zoning Commission for such a determination.

Section 5-25.2. Corner Lot Front Yard Fencing. [Ord. No. 1605 §1, 4-16-2002; Ord. No. 1684 §1, 5-6-2003]

A fence may be considered in the front yard of a corner lot, as corner lot is defined in the City's zoning chapter, if the following criteria are satisfied:

(a) *Application.* An application shall be made to the Board of Aldermen which shall include:

(1) Applicant's name and signature;

(2) Subject address;

(3) Plot plan depicting proposed location of fencing;

(4) Pictures and/or drawings of the proposed fencing;

(5) Locations of similar installations in the area if they are personally known to exist.

(b) *Application Review*. The Board of Aldermen shall make a determination of approval based on the following criteria:

(1) That the height of the fence does not exceed four (4) feet; however, on a site specific basis consideration may be given to a fence height not to exceed six (6) feet;

(2) That the fence is constructed so that there is a minimum of fifty percent (50%) open space as viewed on any line perpendicular to the vertical plane of the fence; however, on a site specific basis consideration may be given to a privacy fence with no such open space;

(3) That the forward most installation of the fence is the front facade of the applicant's house or the front facade of the adjacent house if it is closer to the street right-of- way; however, on a site specific basis consideration may be given to the fence extending beyond the front facade of the adjacent house;

(4) That the fence shall be installed with the finished side facing the neighboring property;

(5) That such fencing will not create a safety, fire or traffic hazard or other potentially injurious condition; and

(6) That the character of the neighborhood will not be compromised.

(c) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of any proposal and the date of the meeting at which the proposal will be considered.

Section 5-25.3. Construction of Fencing which Adjoins Adjacent Front Yards. [Ord. No. 1605 §1, 4-16-2002]

A fence proposed for construction which would adjoin the front yard of an adjacent lot may be considered and authorized by the City only if the following criteria are satisfied:

(a) *Application.* An application shall be made to the Board of Aldermen which shall include:

(1) Applicant's name and signature;

(2) Subject address;

(3) Proposed use for the subject lot;

(4) Plot plan depicting proposed location of fencing;

(5) Pictures and/or drawings of the proposed fencing; and

(6) Locations of similar installations in the area if they are personally known to exist.

(b) *Application Review*. The Board of Aldermen shall make a determination of approval based on the following criteria:

(1) That any portion of the proposed fence that adjoins a front yard shall be no greater than four (4) feet in height and shall be constructed so that there is a minimum fifty percent (50%) open space as viewed on any line perpendicular to the vertical plane of the fence;

(2) That such fencing will not create a safety, fire or traffic hazard or other potentially injurious condition;

(3) That the fence shall be installed with the finished side facing the neighboring property; and

(4) That the character and appearance of the immediately adjacent property or the neighborhood will not be compromised.

(c) *Notification.* Letters shall be sent to adjoining neighbors notifying them of any proposal and the date of the meeting at which the proposal will be considered.

Section 5-25.4. Front Yard Fence — Commercial and Industrial Zoning Districts. [Ord. No. 1605 §1, 4-16-2002]

Front yard fencing proposed for operation in commercial and industrial zoning districts may be permitted by the City if the following criteria are satisfied:

(a) *Application.* An application shall be made to the Board of Aldermen which shall include:

(1) Applicant's name and signature;

(2) Subject address;

(3) Plot plan depicting proposed location of fencing;

(4) Pictures and/or drawings of the proposed fencing; and

(5) Locations of similar installations in the area if they are personally known to exist.

(b) *Application Review*. The Board of Aldermen shall make a determination of approval based on the following criteria:

(1) The fence shall be no greater than six (6) feet in height and shall be designed so as to maintain as much open space as is possible and practical. Approved front yard fencing is not to be utilized to delineate property boundaries, and such shall be constructed so as to provide enough free and clear space around all sides to allow for maintenance and repair of the fencing without requiring entry onto property not owned by the applicant. Front yard fencing may not be placed in the City right-of-way and placement over any easement is done at the applicant's risk, with such fencing being subject to removal without replacement or compensation.

(2) That the fence shall be installed with the finished side facing the neighboring property;

(3) That such fencing would not create a safety, fire or traffic hazard or other potentially injurious condition; and

(4) That the character and appearance of the neighborhood will not be compromised.

Section 5-25.5. Front Yard Fence — Churches and Schools. [Ord. No. 1605 §1, 4-16-2002]

Front yard fencing proposed for operation in conjunction with churches and schools may be permitted by the City if the following criteria are satisfied:

(a) *Application.* An application shall be made to the Board of Aldermen which shall include:

(1) Applicant's name and signature;

(2) Subject address;

(3) Plot plan depicting proposed location of fencing;

(4) Pictures and/or drawings of the proposed fencing; and

(5) Locations of similar installations in the area if they are personally known to exist.

(b) *Application Review*. The Board of Aldermen shall make a determination of approval based on the following criteria:

(1) The fence shall be no greater than six (6) feet in height and shall be designed so as to maintain as much open space as is possible and practical. Approved front yard fencing is not to be utilized to delineate property boundaries, and such shall be constructed so as to provide enough free and clear space around all sides to allow for maintenance and repair of the fencing without requiring entry onto property not owned by the applicant. Front yard fencing may not be placed in the City right-of-way and placement over any easement is done at the applicant's risk, with such fencing being subject to removal without replacement or compensation.

(2) That the fence shall be installed with the finished side facing the neighboring property;

(3) That such fencing would not create a safety, fire or traffic hazard or other potentially injurious condition; and

(4) That the character and appearance of the neighborhood will not be compromised.

Section 5-25.6. Front Yard Fence — LLRD Zoning District. [Ord. No. 1605 §1, 4-16-2002; Ord. No. 1707 §1, 8-5-2003]

Front yard fencing proposed for Large Lot Residential Zoning Districts may be permitted by the City if the following criteria are satisfied:

(a) *Application.* An application shall be made to the Board of Aldermen which shall include:

(1) Applicant's name and signature;

(2) Subject address;

(3) Plot plan depicting proposed location of fencing;

(4) Pictures and/or drawings of the proposed fencing; and

(5) Locations of similar installations in the area if they are personally known to exist.

(b) *Application Review*. The Board of Aldermen shall make a determination of approval based on the following criteria:

(1) Fence shall be no greater than six (6) feet in height;

(2) Fence shall not be placed in the City right-of-way, and placement over any easements is done at the applicant's risk, with such fencing being subject to removal without replacement or compensation;

(3) That the fence shall be installed with the finished side facing the neighboring property;

(4) That such fencing will not create a safety, fire or traffic hazard or other potentially injurious condition; and

(5) That the character and appearance of the neighborhood will not be compromised.

Section 5-25.7. Front Yard Fence — Lots of Five or More Acres. [Ord. No. 1686 §1, 5-6-2003]

Front yard fencing proposed on lots of five (5) or more acres may be permitted by the City in any zoning district if the following criteria are satisfied:

(a) *Application.* An application shall be made to the Board of Aldermen which shall include:

(1) Applicant's name and signature;

(2) Subject address;

(3) Plot plan depicting proposed location of fencing;

(4) Pictures and/or drawings of the proposed fencing; and

(5) Locations of similar installations in the area if they are personally known to exist.

(b) *Application Review*. The Board of Aldermen shall make a determination of approval based on the following criteria:

(1) Fence shall be no greater than five (5) feet in height;

(2) Fence shall not be placed in the City right-of-way, and placement over any easement is done at the applicant's risk, with such fencing being subject to removal without replacement or compensation;

(3) That the fence shall be installed with the finished side facing the neighboring property;

(4) That such fencing will not create a safety, fire or traffic hazard or other potentially injurious condition; and

(5) That the character and appearance of the neighborhood will not be compromised.

Section 5-25.8. Rear and Side Yard Fence Height. [Ord. No. 1605 §1, 4-16-2002; Ord. No. 1686 §1, 5-6-2003]

Unless otherwise set forth in this Article, the following provisions with respect to rear and side yard fence height shall be applicable:

(a) Rear and side yard fences in residential zoning districts shall be no greater than six (6) feet in height.

(b) Rear and side yard fences in commercial or industrial zoning districts shall be no greater than eight (8) feet in height, or ten (10) feet in height if such fence is topped with barbed or razor wire.

Section 5-25.9. Regulations — Certain Types of Fences. [Ord. No. 1605 §1, 4-16-2002; Ord. No. 1686 §1, 5-6-2003]

(a) The installation of barbed wire, razor wire, electrified or other fencing or fencing materials deemed harmful to humans is prohibited on any residentially zoned or residentially utilized lot less than two (2) acres in area. The Building Commissioner is to serve notice to the owners of any pre-existing installations of such fencing to remove same within no more than thirty (30) days after being served said notice.

Section 5-26. Non-Conforming Fences. [Ord. No. 1605 §1, 4-16-2002]

Front yard fences constructed prior to January 19, 1982, may continue to exist as non-conforming fences, so long as they remain in good condition and repair. Existing front yard fences, upon removal for any reason whatsoever, shall be required to conform to the provisions herein.

Section 5-27. Enforcement. [Ord. No. 1605 §1, 4-16-2002]

The Building Commissioner is hereby empowered to perform inspection, administer and enforce the provisions contained herein. The procedures outlined in Division 6 of Article I of this Chapter shall be used as the administrative procedure for this Article.

Section 5-28. Violations and Penalties. [Ord. No. 1605 §1, 4-16-2002]

Any person who shall violate a provision of this Article or who shall fail to comply with any of the requirements thereof, or who shall erect, construct, alter or repair a fence in violation of an approved plan or directive of the Building Commissioner, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment not exceeding six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

ARTICLE V
Modular and Prefabricated Structures

Section 5-29. Defined. [Ord. No. 718, §1]

For the purposes of this Article "modular" and "prefabricated" structures shall be deemed identical and shall be defined as any building or structure with over fifty (50) square feet of floor space, constructed and assembled at a place other than the place it is intended to remain permanently and/or designed to be transported after fabrication or construction on its own or detachable wheels, on a flatbed truck or any other truck, trailer or conveyance.

Section 5-30. Permit Required. [Ord. No. 718, §2; Ord. No. 2209 §1, 4-3-2012]

It shall be unlawful for any person to construct, place, keep or maintain at any place within the City a modular or prefabricated structure, unless a permit is issued by the Board of Aldermen for such purpose. A modular or prefabricated structure from which food and/or beverages are proposed to be sold may be considered under the special use permit process which may include conditions of approval including, but not limited to,

the total term of use, days and/or times of operation and the period of use within a single calendar year. A modular or prefabricated structure operated in connection with an outdoor recreational use may be considered under the special use permit process which may include operation and/or site specific conditions of approval.

Section 5-31. Unlawful Storage Containers or Trailers. [Ord. No. 925, §2]

It shall be unlawful for any person to construct, place, keep or maintain at any place within the City a storage container or trailer used for storage purposes, except those containers used for storing solid wastes as permitted in Section 18-3, unless a permit is issued by the Board of Aldermen for such purpose. Permits shall only be issued when the storage trailer or container is located upon the same lot or parcel as the place of the business in conjunction with which the trailer or container is used.

Section 5-31.1. (Reserved) [8]

ARTICLE VI
Miscellaneous Regulations

Section 5-32. Regulating Placement of Electrical Utility Cables. [Ord. No. 956 §1, 5-15-1990]

(a) It shall be unlawful for any person to erect or construct utility poles or lines for the transmission of electricity, telephone messages, or other public utility transmissions above the surface of the ground within the confines of the City, and all such distribution lines shall be installed underground. Overhead distribution feeder lines, overhead through lines, cable switching enclosures, pad mounted transformers, and services pedestals shall be allowed above ground but not directly over the improved street rights of way, except for purposes of crossing street rights of way.

(b) Placement of said underground cables shall be subject to the building requirements of Chapter 5 of the Code of the City of Eureka. Nothing contained herein shall prevent the maintenance or repair of existing above ground utility poles and lines, the erection, construction, and maintenance of temporary poles and lines erected in connection with construction projects in the City, or the maintenance of utility poles and lines above the surface of the ground existing prior to the enactment of said Section.

(c) Where unusual topographical conditions exist, the Board of Aldermen may grant exceptions upon application.

(d) Whenever any streets, alleys, sidewalks, curbs, or gutters shall be disturbed or injured in the installing or maintenance of any equipment in pursuance of this Article, it shall be the duty of the owner of such equipment, on the completion of the work, to immediately restore and repair such street, alley, sidewalk, curb or gutter so disturbed or injured to the satisfaction of the Director of Public Works.

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8. **Editor's Note — Ord. no. 1264 §1, enacted 11-19-1996, repealed §5-31.1, which derived from ord. no. 1151 §1, 2-21-1995. The provisions of ord. no. 1264 are set out in §§23-91.1, 23-111.1 and 23-121.1 of this Code.**

(e) This Section does not apply to all present residential and platted commercial and industrial subdivisions, but shall apply to any new residential developments and new platted commercial and industrial subdivisions from and after May 15, 1990.

Section 5-33. Satellite Dish Regulations. [Ord. No. 1157 §§1-4, 4-18-1995; Ord. No. 1341 §1, 2-17-1998; Ord. No. 1360 §1, 6-2-1998]

(a) For purposes of these regulations, a *"satellite dish"* is defined as a typically round and concave device of various diameters normally mounted outside of a dwelling unit or other building attached to the structure or mounted on the ground, intended for reception of digital data, video and/or audio signals transmitted by, from or through orbital satellites. Any reference to a satellite dish also includes all bases, equipment and hardware necessary to properly install and operate same.

(b) For purposes of these regulations, an *"antenna"* is defined as any structure constructed and utilized to transmit and/or receive electromagnetic waves, including but not limited to, radio signals, television signals, telephone or cellar signals, digital data signals, shortwave radio signals, satellite signals, and/or any other communication device signal not listed herein. These regulations apply to all antenna whether mounted outside of a dwelling unit or other building attached to the structure or mounted on the ground. Any reference to an antenna also includes all bases, equipment and hardware necessary to properly install and operate same. Subject to the discretion of the Board of Aldermen, these regulations are not intended to apply to any commercial communication relay and transfer tower exceeding six (6) feet regulated under any other Section of the City Code.

(c) The following standards shall apply to the location, installation, appearance and operation of antenna and satellite dishes within all zoning districts:

(1) A satellite dish and/or antenna must be located on property which it is serving.

(2) Not more than one (1) satellite dish may be operated on a single lot.

(3) Not more than one (1) antenna may be operated on a single lot.

(4) The combination of one (1) satellite dish and one (1) antenna may be operated on a single lot as long as the property owner follows all regulations contained herein.

(5) For purposes of these regulations, each residential unit in a multi-family structure shall be considered a single lot and the occupants of each said unit may apply to construct or erect nor more than one (1) satellite dish and one (1) antenna. Each applicant under this Subsection must submit with his/her building permit application a statement in writing signed by the property owner, or the property owner's agent, consenting to the construction or erection of the proposed satellite dish or antenna.

(6) Satellite dish and/or antenna plans including a site plan and a building permit application must be submitted to the City, and a building permit must be issued prior to any portion of same being installed. All rules and regulations

regarding building permits apply to proposed satellite dishes and/or antennae, except that no fee whatsoever, including any and all application fees, shall be collected by the City for the issuance of a building permit under these provisions.

(7) A satellite dish and/or antenna not attached to a structure may be located only in a rear yard and must observe setback and all other requirements applicable to the standards set forth for ancillary structures and appurtenances in the zoning district for which there is a proposed satellite dish installation.

(8) A satellite dish and/or antenna mounted on a single-family dwelling or on a one-story multi-family structure may not exceed thirty-six (36) inches in diameter, and whenever possible should be mounted on the side or rear of a structure in such a manner so as not to face any roadway.

(9) A satellite dish and/or antenna exceeding twenty-four (24) inches in diameter may be mounted on the roof of a two-story three (3) or more unit multi-family structure or on the roof of a commercial or industrial structure, subject to all provisions stated herein.

(10) A ground based satellite dish and/or antenna may be installed at a height no greater than six (6) feet, unless a greater height is necessary for normal signal reception. An applicant may be required to provide evidence from the appropriate professionals to substantiate a particular proposed installation exceeding the height limitation contained herein. Said measurement shall be calculated from the established grade to the highest point of the proposed satellite dish and/or antenna.

(11) A roof-based satellite dish and/or antenna mounted on the roof of a single-family dwelling or on a one-story multi-family structure may be installed at a height no greater than thirty-six (36) inches above the highest point of the dwelling's rooftop, excluding all chimneys and venting apparatus, unless a greater height is necessary for normal signal reception. An applicant may be required to provide evidence from the appropriate professionals to substantiate a particular proposed installation exceeding the height limitation contained herein. Said measurement shall be calculated from the established rooftop to the highest point of the proposed satellite dish and/or antenna.

(12) A roof-based satellite dish and/or antenna mounted on the roof of a two-story, three (3) or more unit multi-family structure or on the roof of a commercial or industrial structure may be installed at a height no greater than two (2) feet beyond the highest point of the dwelling's rooftop, excluding all chimneys and venting apparatus, unless a greater height is necessary for normal signal reception. An applicant may be required to provide evidence from the appropriate professionals to substantiate a particular proposed installation exceeding the height limitation contained herein. Said measurement shall be calculated from the established rooftop to the highest point of the proposed satellite dish and/or antenna.

(13) A satellite dish and/or antenna shall be installed and operated in an aesthetically pleasing manner by the use of measures, including, but not limited to the use of landscaping or other suitable screening. The satellite dish and/or antenna shall not be of an offensive design or color, and whenever possible shall be of neutral colors which do not contrast with the surroundings.

(d) These regulations do not grant authority for the outdoor display of such devices for purposes of selling same or service associated therewith, and any such authority shall be by special use permit for outdoor display of merchandise.

(e) As is the case with many regulations including these, subdivision indentures may be more restrictive than City ordinances, thus superseding them when more restrictive.

(f) The purpose of these regulations is to protect the health and safety of the citizens of Eureka by regulating the size, height, and location of satellite dishes and/or antennae.

These regulations are intended to prevent satellite dishes and/or antennae from being located in areas obstructing vehicular or pedestrian traffic, or in any area that may create an unreasonable risk of harm to people, animals, or property. Furthermore, these regulations are intended to ensure that any satellite dish and/or antenna shall be constructed of quality material and quality craftsmanship in an effort to reduce the possibility of physical harm to people, animals, or property due to improper or inferior construction and/or installation. Additionally, these regulations are intended to advance the general welfare of the citizens of Eureka by protecting the aesthetic appearances of neighborhoods and other areas from inappropriate satellite dishes and/or antennae.

Section 5-34. Outdoor Storage and/or Operation of Appliances. [Ord. No. 1375 §1, 9-15-1998]

(a) For purposes of this Section, an *"appliance"* shall be defined as a household or commercial device or machine designed for performing a specific task, either mechanically or electrically. Appliances shall include, but not be limited to, washers, dryers, water heaters, trash compactors, dishwashers, microwave ovens, conventional ovens, ranges, stoves, wood stoves, air-conditioners, refrigerators, freezers, dehumidifiers and humidifiers. As required, the City shall make a determination as to what constitutes an appliance.

(b) No appliance shall be stored or operated outdoors in the front or side yards of a parcel, nor be stored or operated outdoors on any portion of a parcel not containing a structure. An exception to this restitution are appliances stored outdoors adjacent to the curb awaiting pickup by a refuse hauler or other party for the purpose of disposing of same.

(c) These provisions shall not be applicable to any appliance stored or operated outdoors which is an integral part of a structure situated on a parcel such as an air-conditioner, wood burning stove or other appliance, with the condition that any

such installation was authorized by the City or its agents with proper permits and same remains in good working condition.

Section 5-35. Construction Operating Times. [Ord. No. 1718 §1, 9-16-2003; Ord. No. 1939 §1, 8-29-2006]

(a) *Definitions.* As used in this Section, the following definitions apply unless the context clearly indicates another meaning:

DAYTIME HOURS — 7:00 A.M. to sunset (as published by the Astrological Applications Department of the U.S. Naval Observatory) Monday through Friday and 8:00 A.M. to sunset (as published by the Astrological Applications Department of the U.S. Naval Observatory) Saturday and Sunday.

EMERGENCY WORK — Work necessary to restore property to a safe condition following a public calamity or work required to protect person or property from imminent exposure to danger.

HEAVY EQUIPMENT — Any vehicle or other device used in construction including, but not limited to, large trucks, dump trucks, graders, bulldozers, jackhammers, loaders, excavators, trenchers, backhoes, earth-moving equipment, dozers or air compressors.

PERSON — Any entity, corporation, partnership or individual.

RESIDENCE — Any building which is designed or used exclusively for residential purposes, except hotels and motels.

(b) *Restrictions Generally.* No person or entity shall cause or allow construction work of any kind that creates a sound level measured at the property line in excess of sixty (60) decibels (normal conversational speech measured at one (1) foot from the source) including, but not limited to, hammering, running of motors, mixing materials, the operation of any heavy construction equipment, hauling, erection (including excavation), demolition or grading equipment, alteration or repair of any building or structure within one thousand (1,000) feet of a residence other than during daytime hours, except in the case of urgent necessity in the interest of public safety and then with permission of the City Administrator, Public Works Director or Building Commissioner for a period not to exceed three (3) days which may be renewed for a like or less period if the emergency continues.

(c) *Exceptions.* The following shall constitute exceptions to the time limitations as herein specified:

(1) Emergency work to repair or maintain public/private utility facilities;

(2) Emergency work to repair equipment or facilities damaged or rendered inoperable as a direct result of unavoidable damage or upset conditions providing such occurrence is reported to the City Administrator, Public Works Director or Building Commissioner within twenty-four (24) hours after the occurrence;

(3) The repair, maintenance or construction of public highways of the State, County or municipal government, or such public or quasi-public municipal corporations as may be established under the Constitution of the State of Missouri.

Section 5-36. Neon Lighting Prohibited. [Ord. No. 1823 §1, 3-15-2005]

(a) For purposes of this Section, *"neon lighting"* shall be generally defined as glass or plastic tubing containing any gaseous material which is electrically charged to produce illumination. *"Neon lighting"* shall also include light emitting diode (LED) materials which are designed to be installed and operated in a manner so as to have a similar appearance to gas filled tubing.

(b) The use of neon lighting on all structures is hereby prohibited, except as may be allowed in connection with certain neon building signage authorized by Chapter 19A of this Code. This prohibition shall include internally mounted neon lighting which is visible from outside of the structure.

Section 5-37. Structures in Front, Side or Rear Yards. [Ord. No. 1852 §1, 9-6-2005; Ord. No. 2302 §1, 6-17-2014]

Any structure proposed to be constructed or placed in a front, side or rear yard of any lot within a residential zoning district that is in excess of four (4) feet in height or is in excess of fifty (50) square feet in area shall require approval by the Board of Aldermen subject to the following criteria (except for detached accessory buildings as regulated by Section 23-165):

(a) *Application.* An application shall be made to the Board of Aldermen which shall include:

(1) Applicant's name and signature;

(2) Subject address;

(3) Plot plan depicting proposed location of structure;

(4) Pictures and/or drawings of the proposed structure; and

(5) Locations of similar structure installations in the area if they are personally known to exist.

(b) *Application Review*. The Board of Aldermen shall make a determination of approval based on the following criteria:

(1) That the height and/or area of the structure is within the permissible standards;

(2) That such structure will not create a safety, fire or traffic hazard or other potentially injurious condition; and

(3) That the character of the neighborhood will not be compromised and/or property values will not be adversely affected.

(c) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of any proposal and the date of the meeting at which the proposal will be considered.

(d) *Exemptions.* These provisions shall not be applicable for fences, seasonal decorations, playground equipment and structures within the Large Lot Residential District zoning classification.

Section 5-38. Structures on Lots having three (3) or more Front Yards. [Ord. No. 1949 §1, 11-21-2006]

In instances where a lot has three (3) or more front yard areas, a structure may be considered by the Board of Aldermen to be located in a front yard area subject to the following criteria:

(a) *Application.* An application shall be made to the Board of Aldermen which shall include:

(1) Applicant's name and signature;

(2) Subject address;

(3) Plot plan depicting proposed location of structure;

(4) Pictures and/or drawings of the proposed structure; and

(5) Locations of similar structure installations in the area if they are personally known to exist.

(b) *Application review.* The Board of Aldermen shall make a determination of approval based on the following criteria:

(1) That the height and/or area of the structure is within the permissible standards;

(2) That such structure will not create a safety, fire or traffic hazard or other potentially injurious condition; and

(3) That the character of the neighborhood will not be compromised and/or property values not adversely affected.

(c) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of any proposal and the date of the meeting at which the proposal will be considered.

Section 5-39. Decontamination of Structures Where Methamphetamine Has Been Produced. [Ord. No. 2273 §1, 10-1-2013]

(a) *Purpose.* Pursuant to the Eureka Building Regulations, the following standards, requirements and protocols are established for the cleanup of illegal laboratories used to manufacture methamphetamine which property owners are required to meet.

(b) *Applicability.* The requirements of this Section apply when the owner of property that has been posted as an unsafe structure receives notification from the Code Official of the City of Eureka that chemicals, equipment, or supplies indicative of a

drug laboratory were located at the property, or when a drug laboratory is otherwise discovered, and the owner of the property where the drug laboratory was located has received notice.

(c) *Definitions.* As used in this section, the following terms shall have these prescribed meanings:

AGENT OF THE OWNER — A current employee or representative of the owner of record who was in the employ of that owner at the time the property was determined to be an illegal drug manufacturing site; or is a current employee or representative of any new owner.

BUILDING — A structure which has the capacity to contain humans, animals or property.

CHEMICAL STORAGE AREA — Any area where chemicals used in the manufacture of methamphetamine are stored or have come to be located.

CODE OFFICIAL — The Building Commissioner for the City of Eureka, Missouri, or his designee.

CONTAMINANT — A chemical residue that may present an immediate or long-term threat to human health and the environment.

CONTAMINATION OR CONTAMINATED — The presence of chemical residues which may present an immediate or long-term threat to human health or the environment.

CONTRACTOR — One (1) or more qualified individuals or commercial entities hired to perform work in accordance with the requirements of this protocol.

COOKING AREA — Any area where methamphetamine manufacturing is occurring or has occurred.

DECONTAMINATION — The process of reducing the level of contamination to the lowest practical level using currently available methods. At a minimum, decontamination must reduce contamination of specified substances at or below the concentrations allowed by this protocol.

FUNCTIONAL SPACE — A space where the spread of contamination may be expected to occur relatively homogeneously, compared to other functional spaces. The functional space may be a single room or group of rooms designated by an inspector who, based on professional judgment, considers the space to be separate from adjoining areas with respect to contaminant migration. Typical examples of functional spaces include a crawl space, an attic, and the space between a dropped ceiling and the floor or roof deck above.

MEDIA — The physical material onto which sample substrate is collected. "Media" includes gauze, glass fiber filters, etc.

METHAMPHETAMINE — Dextro-methamphetamine, levo-methamphetamine, and unidentified isomers of the same, any racemic mixture of dextro/levo methamphetamine, or any mixture of unidentified isomers of methamphetamine. The term includes derivatives, conjugates, oxides and reduced forms of the basic structure associated with

the formation of methamphetamine. For the purposes of this protocol, this term includes amphetamine, ephedrine and pseudoephedrine.

PERSON — Any individual, public or private corporation, partnership or association.

PROPERTY — Anything that may be the subject of ownership or possession, including, but not limited to, land, buildings, structures, vehicles and personal belongings.

PROPERTY OWNER — For the purposes of real property, the person holding fee title to real property. "Property owner" also means the person holding title to a manufactured home. With respect to personal property, the term means the person who lawfully owns such property.

REMOVAL — The taking out or stripping of material or surfaces to eliminate the potential for exposure to contaminants on or in the material or surfaces.

SUBSTRATE — The material being collected. Substrates may include soils, water, painted surfaces, carpet or carpet debris, unidentified powders, dust, etc.

UNSAFE STRUCTURE — Any structure, building or premises that has the defects or characteristics contained in Section 116, International Building Code, and thereby constitute a hazard to safety, health or public welfare.

VACUUM SAMPLE — A non-airborne dust sample collected from a known surface area of a porous surface or material using standard micro-vacuum sampling techniques.

WASTE DISPOSAL AREA — Any area where chemicals used or generated in the manufacture of methamphetamine are disposed or have come to be located.

WIPE SAMPLE — A surface sample collected by wiping a sample media on the surface being sampled.

(d) *Assessment.* When law enforcement personnel discover property where methamphetamine has been produced, or where the equipment and chemicals to produce methamphetamine are present in sufficient quantities to warrant enforcement action, they will take samples using a methamphetamine field test kit. The field test used shall be of the type approved by law enforcement officials, industry experts and the courts, and shall measure the presence of methamphetamine residue on surfaces at a level that is at least as high as the level established in Subsection (h) below. The assessment shall be performed by personnel who the Chief of Police has determined are appropriately trained, and the assessment shall include, but not be limited to, the following:

(1) Assessment of the number and type of structures present on the property where methamphetamine may have been produced.

(2) Identification of structural features that may indicate separate functional spaces, such as attics, false ceilings and crawl spaces, basements, closets and cabinets.

(3) Identification of the manufacturing methods based on observations, reports from law enforcement personnel and knowledge of manufacturing methods.

(4) Identification of possible areas of contamination based on visual observation, reports from law enforcement personnel, proximity to chemical storage areas, waste disposal areas or cooking areas, signs of contaminations such as staining, etching, fire damage, outdoor areas of dead vegetation or based on the professional judgment of the person collecting the samples.

(5) Identification of adjacent units and common areas to determine the likelihood that contamination has spread or may have been tracked.

(6) Identification of common ventilation systems with adjacent units or common areas.

(e) *Sampling Plan.* On the basis of the analysis of these areas and the judgment of the person collecting the data, a sampling plan will be formulated to determine the areas with the greatest probability of containing the highest possible concentrations of contaminants. Samples will be taken with techniques that are appropriate for the surface being sampled using media and testing kits designed to detect the presence of methamphetamine, the results of which are determined as the samples are collected.

(f) *Posting of Notice.* If the field test reveals the presence of methamphetamine at levels in excess of the levels established herein, the structure shall be considered unsafe for human habitation and it will be posted as an unsafe structure by the Code Official. A structure or unit that is posted as unsafe shall not be occupied until the Code Official orders that status removed.

(g) *Procedures For Assessment, Sampling and Testing.*

(1) While posting the structure constitutes notice, the Code Official shall also attempt to contact the owner of record of the affected property, or the owner's agent, by sending a letter via certified mail. Whether the certified mail is collected or is returned to the Code Official as undeliverable, the City shall proceed on the basis of the posted notice.

(2) The notice shall inform the owner to contact the Building Department to establish a schedule for decontaminating the structure. If the owner does not contact the City within the time specified in the notice, the Code Official may request Ameren Missouri to disconnect the electric service to ensure the structure is not reoccupied until decontamination is performed.

(3) If the owner contacts the City within the prescribed period, the owner may request permission to have the property retested. If the owner chooses to retest the property, the owner must employ the services of a company that the Code Official shall determine is qualified to perform sampling and to analyze the samples. If the owner chooses to hire a company to collect new samples, a trained law enforcement officer for the City must be present when the samples are taken and the owner shall pay an inspection fee of forty dollars ($40.00), payment of which must be made prior to removal of the unsafe structure declaration. The results of the analysis shall be provided to the Code Official.

(4) Testing shall be performed in accordance with the appropriate sections of the United States Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August, 2009).

(h) *Contamination Levels.* A structure will be considered unsafe and non-compliant if it is found to contain more than the following levels of any of these chemicals:

(1) Methamphetamine in a concentration equal or greater than 0.1 µgram/100 cm2.

(2) If it is determined that the phenyl-2-propanone (P2P) method of methamphetamine manufacturing was used, surface levels for lead in excess of 20 µg/ft2 and vapor samples for Mercury in excess of 50 ng/m.

(i) *Decontamination.*

(1) If testing reveals the presence of contamination in levels that exceed the standards set forth in this Section, the owner is required to hire a qualified contractor to decontaminate the structure and shall advise the Code Official of the schedule for decontamination. At a minimum, to be qualified to perform decontamination, contractors and all personnel must have completed the forty-hour hazardous waste operations and emergency response (HAZWOPER) training [Occupational Safety and Health Administration (OSHA) 29 CFR 1910] and a clandestine drug lab assessment and decontamination course that is provided by a sponsor acceptable to the Code Official.

(2) The schedule for the work and evidence that the contractor has met the minimum training requirement must be submitted for approval to the Code Official within seven (7) business days of the posting of the notice. Approval will be based solely on the timeliness of the schedule and qualifications of the contractor. Approval or rejection of the schedule will be provided within three (3) business days of submission. If rejected, the owner will be informed of specific reasons for the rejection and will be required to amend the schedule or the proposed contractor. Decontamination shall be performed in accordance with the appropriate sections of the United States Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August, 2009).

(3) If the owner of property determined to be in violation of the minimum allowable levels of chemicals as provided in this protocol fails to voluntarily mitigate the violation, the Code Official may serve a notice of violation and proceed in accordance with Section 114 of the International Residential Code or may declare the structure as unsafe and proceed in accordance with Sections 112 and 116 of the International Building Code. The Code Official may request Ameren Missouri to disconnect electrical service until the decontamination is complete.

(j) *Post-Decontamination Sampling.* When the owner arranges for decontamination, following the completion of the work, the owner will notify the City that the work is complete and schedule a time for post-remediation testing. The structure must be

tested in the presence of a trained law enforcement officer for the City. The owner must provide test results as evidence that the property is compliant with this regulation. Should the results of the post-remediation sampling show the presence of methamphetamine in excess of the standards established by this Chapter, further steps shall be taken to decontaminate the structure and additional testing shall be done in the presence of a trained law enforcement officer for the City. Each time an inspector for the City is present, the owner, shall pay an inspection fee of forty dollars ($40.00). The post-remediation sampling and testing must be performed by a company the Code Official has determined to be qualified and done in accordance with the appropriate sections of the United States Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August, 2009).

(k) *Final Action.* After the property has been decontaminated and the Code Official is in possession of evidence that the pertinent chemical levels are below the levels established by this regulation, the structure will be considered safe and suitable for human habitation. If electric service has been disconnected, the Code Official will notify Ameren Missouri that the unsafe condition has been mitigated and service can be restored. The property owner shall be responsible for any reconnection fees.

(l) *Penalties.* Any person violating any of the provisions of this Section shall, upon conviction, be subject to the general penalty provisions set forth in Section 1-7 of the Eureka Municipal Code.

ARTICLE VII
Retaining Wall Regulations

Section 5-40. Non-Residential Retaining Walls. [Ord. No. 1592 §3, 2-19-2002; Ord. No. 1718 §1, 9-16-2003]

The use of wood-based retaining wall construction materials is prohibited in any non-residential zoning district.

Chapter 6

CIVIL DEFENSE

Section 6-1. Civil Defense Organization — Created; Purpose; Composition. [Ord. No. 181, §1]

There is hereby created the city 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 enemy attack in accordance with section 44.020 et seq., of the Revised Statutes of Missouri.

This organization 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.

Section 6-2. Same — Functions. [Ord. No. 181, §3]

The city civil defense organization shall perform such civil defense functions within the city as shall be prescribed in and by the state civil defense 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 corporate limits as may be required pursuant to any mutual aid agreement with any other governmental subdivision, municipality or quasi-municipality entered into as provided by section 44.010 et seq., of the Revised Statutes of Missouri or the state survival plan.

Section 6-3. Same — Director — Appointment; Responsibilities Generally. [Ord. No. 181, §2; Ord. No. 321, §1]

A director of the city civil defense organization for the conduct of emergency operations shall be appointed during May of each year by the mayor, with the approval of the board of aldermen, and shall serve for a period of one year.

The director shall have such responsibilities for the organization, administration and operation of this organization as is delegated by the mayor, with the approval of the board of aldermen.

Section 6-4. Same — Same — Power of Director to Appoint, Etc., Personnel. [Ord. No. 181, §4; Ord. No. 321, §2]

The director, with the approval of the mayor and board of aldermen, shall appoint or remove any personnel needed by the organization for the proper function of its duties. The director shall be entitled to compensation from the city for his services as such at the

rate of ten dollars per month. Such other personnel as may be appointed hereunder shall serve without compensation.

Section 6-5. Same — Oath of Office of Members. [Ord. No. 181, §7]

Every person appointed to serve in any capacity in the city civil defense organization shall, before entering upon his 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 and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Missouri, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; 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, nor have I been, 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 affiliated with 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."

Section 6-6. Same — Office Space. [Ord. No. 181, §8]

The mayor, with the approval of the board of aldermen, is authorized to designate space in any city owned or leased building for the city civil defense organization as its office.

Section 6-7. Emergency Procurement of Services, Supplies, Etc. [Ord. No. 181, §5]

In the event of an emergency, as defined in section 44.010 et seq., of the Revised Statutes of Missouri, the city director of civil defense is authorized on behalf of the city, to procure such services, supplies, equipment or material as may be necessary for such purposes, in view of the exigency, without regard to the statutory procedures or formalities normally prescribed by law pertaining to city contracts or obligations, as authorized by section 44.010 et seq., of the Revised Statutes of Missouri; provided, that if the board of aldermen meets at such time, he shall act subject to the directions and restrictions imposed by that body.

Section 6-8. Waiver of Formal Requirement in Case of Enemy Attack. [Ord. No. 181, §6]

In the event of enemy attack, the mayor, with the approval of the board of aldermen, may waiver any time consuming procedures and formalities otherwise required by statute pertaining to the advertisement for bids for the performance of public work or entering into contracts.

Section 6-9. Records Pertaining to Operational Guidelines, Policies and Specific Response Plans. [Ord. No. 2269 §1, 8-6-2013]

Because disclosure would impair the City's ability to protect the security or safety of persons or real property, and because the public interest in nondisclosure outweighs the public interest in disclosure under the circumstances, it is hereby determined that all operational guidelines, policies and specific response plans developed, adopted, or maintained by any department, board or commission of the City responsible for law enforcement, public safety, first response or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health shall be closed records; except that financial records related to the procurement of or expenditures relating to operational guidelines, policies or plans purchased with public funds shall be open records.

Chapter 7

ELECTIONS

Section 7-1. Wards. [Ord. No. 933 §1; Ord. No. 1326 §2, 11-18-1997]

The boundaries of Wards No. 1, 2, and 3 of the City of Eureka are hereby changed to encompass the areas described below; as indicated on the ward district boundary map which is on file in the City Clerk's office.

(a) All that area of the City of Eureka lying and situated north of the north right-of-way line of Interstate Highway I-44 and west of the west right-of-way line of Highway 109 with the exception of the area identified as being in Ward Number 2 which is north of Interstate Highway I-44 and west of Highway 109 is hereby designated as comprising Ward Number 1.

(b) All that area of the City of Eureka lying and situated east of the east right-of-way lines of State Highway "W" and State Highway 109, with the addition of the area west of the west right-of-way line of Highway 109 beginning at the southern boundary of the property identified by St. Louis County Locator Number 28V320101, and continuing in a northwesterly direction following the boundary of the Rockwood School District property identified by St. Louis County Locator Number 28V330045, and including the Emerald Forest Subdivision is hereby designated as comprising Ward Number 2.

(c) All that area of the City of Eureka lying and situated south of the south right-of-way line of Interstate Highway I-44 and west of the east right-of-way line of State Highway "W", is hereby designated as comprising Ward No. 3.

Section 7-2. Date of General Election; Officers to be Elected. [Ord. No. 936 §2; Ord. No. 1327 §1, 12-2-1997; Ord. No. 1659 §§3-4, 11-19-2002]

The general election for the elective officers of the City shall be held on the first (1st) Tuesday after the first (1st) Monday in April of each year. This election shall be known as the annual general City election. The officers to be elected at such election shall be as follows:

(a) There shall be elected a mayor, a marshal and a collector at every other odd-year election. The mayor, marshal and collector shall each serve for a term of four (4) years.

(b) There shall be elected one (1) alderman from each ward at the odd-year election. Each alderman shall serve for a term of two (2) years.

(c) There shall be elected one (1) alderman from each ward at the even-year election. Each alderman shall serve for a term of two (2) years.

Section 7-3. Special Elections to Fill Vacancies in Office. [Ord. No. 140 §2]

Special elections, when called by the Mayor, or the person occupying the office of Mayor, to fill a vacancy in an elective office shall be provided for by ordinance or resolution of the Board of Aldermen, as it is in the case of any other election. Special elections to fill a vacancy or other purpose shall be conducted the same as other elections in all respects.

Section 7-4. Declaration of Candidacy. [Ord. No. 927 §1; Ord. No. 1266 §1, 11-19-1996]

(a) A candidate for any elective office in the City of Eureka, Missouri, shall, not sooner than 8:00 A.M. on the fifteenth (15th) Tuesday prior to the election and not later than 5:00 P.M. on the eleventh (11th) Tuesday prior to the election, file a written Declaration of Candidacy with the City Clerk of Eureka, Missouri, on a form provided by the City Clerk.

(b) The Declaration of Candidacy provided for in Subsection (a) hereof must be actually received and accepted in person in the office of the City Clerk of Eureka, Missouri, by 5:00 P.M. on the eleventh (11th) Tuesday prior to the election. Only the names of such declared and accepted candidates shall appear on the official election ballot.

Section 7-5. Certification of List of Candidates. [Ord. No. 140 §4; Ord. No. 1266 §1, 11-19-1996]

The City Clerk shall certify to the St. Louis County Board of Election Commissioners by the tenth (10th) Tuesday prior to the election the list of candidates and offices to be voted on in that election in the form prescribed by the St. Louis County Board of Election Commissioners.

Section 7-6. Publication of Notice of Election. [Ord. No. 140 §5; Ord. No. 205 §1; Ord. 2294 §1, 2-18-2014]

The City Clerk shall cause a notice of all elections to be given as required by the Revised Statutes of Missouri, as amended.

Section 7-7. Qualifications of Voters. [Ord. No. 932, §2]

All citizens of the United States, over the age of eighteen (18) years, who are residents of the State and the City, and no other persons, shall be entitled to vote at all City elections, unless such persons are excluded from voting as provided in Section 115.133, RSMo. Provided, that if the election is one for which registration is required that such person must be registered no later than 5:00 P.M., or the normal closing time of any public building where the registration is being held if such time is later than 5:00 P.M., on the third (3rd) Wednesday prior to the election. In no case shall registration for an election extend beyond 10:00 p.m. on the third (3rd) Wednesday prior to the election. Provided

further, that if the election is one for which registration is not required, that such person must have been a resident of the City for thirty (30) days next preceding the election for which such person offers to vote. Provided further, that where registration is required that such a person is registered upon the registration books of the Board of Election Commissioners of the County and thereby shown to be qualified as a voter at elections under the jurisdiction of the Board. Provided further, that each voter shall vote in the ward in which he resides.

Section 7-8. Hours Polling Places to be Open. [Ord. No. 140, §7]

The polling places shall be open from 6:00 A.M. to 7:00 P.M.

Section 7-9. Conduct of Elections Generally. [Ord. No. 140, §8]

All elections shall be conducted by the county board of election commissioners in a manner prescribed by such regulations as the board of election commissioners may promulgate from time to time with reference to the conduct of the elections by cities of the fourth class in the county. The responsibility for judges, polling books, ballots, preserving ballot boxes, establishing polling places, etc., shall be the sole responsibility of the board of election commissioners.

Chapter 8

ELECTRICITY

Section 8-1. County to Perform Electrical Inspections, Issue Permits and Collect Fees. [Ord. No. 190, §1]

The mayor is hereby authorized and directed to execute and enter into an agreement on behalf of the city with the county, under the terms of which the county, through its office of electrical inspection of the public works department, shall issue all electrical permits and execute all electrical inspections in the city, and shall collect all fees for permits and inspections, the county to refund one-third of all fees collected to the city.

Section 8-2. License to Install, Etc., Electrical Wiring, Etc., Required. [Ord. No. 71, §2.; Ord. No. 2037 §1, 3-18-2008]

(a) An owner of property situated within a single family residential zoning district may apply for a permit to perform electrical work, provided the following conditions are met:

(1) The work is limited to single family residences and accessory structures.

(2) The project being permitted involves work on branch circuits only.

(3) The applicant must be the property owner or an immediate family member, and must reside or intend to reside on the premises.

(4) The applicant must personally be performing all of the permitted work.

(5) The applicant must pass the City of Eureka Home Owner's Electrical Exam.

(b) It shall be unlawful for any person to engage in the erection, construction, installation or extension of any electrical apparatus, device, fixture, attachment, wire or wiring to be used or operated in connection with any electrical current or power or plant requiring for its use and operation electric current or power, within the city without first having obtained a license from the county board of electrical examiners authorizing such person to engage in such work.

Section 8-2.1. Underground Electric Service Installation Requirements. [Ord. No. 1439 §1, 2-1-2000; Ord. No. 1623 §1, 8-6-2002]

(a) All categories of electric distribution and service lines shall be installed underground, except as approved by the City. Cable switching enclosures, pad mounted transformers and service pedestals may be installed above ground as approved by the City. The City may consider above ground electric installations in

whole or in part only when a request is submitted by an owner, developer or service provider of the subject area to be served with documentation which supports that the underground installation of electric distribution lines is impractical, impossible or not otherwise beneficial to the interests of the City.

(b) The following types of electric service installations may be allowed to be installed or remain above ground.

(1) Temporary electric service, classified as such by the City and the electric utility provider.

(2) Residential service upgrades, excluding multiple-family structures of four (4) or more units which shall be classified as commercial electric service.

(3) Commercial and industrial electric service upgrades of up to a fifty percent (50%) increase in amperage. Service upgrades exceeding a fifty percent (50%) increase in amperage shall be subject to consideration criteria set forth in Section 8-2.1(a) above.

Section 8-3. Discontinuance of Service for Failure to Obtain Installation Permit. [Ord. No. 71, §3]

The electrical inspector shall disconnect any service where any installation or alteration thereof has been made without first securing a permit.

Section 8-4. Inspection of Installation. [Ord. No. 71, §4]

Upon completion of any installation, erection or alteration of electrical material, wiring, fixtures, machinery or apparatus of any kind, it shall be the duty of the person doing the work to notify the electrical inspector within twenty-four hours after the completion and the electrical inspector shall at once inspect the same, and, if approved by him, shall issue a certificate of satisfactory inspection which shall contain the date of such inspection and outline of the result of such examination; but no such certificate shall be issued unless the electric light, power or heating installation and all apparatus, fixtures and wires connected with it shall be in strict conformity with the rules and regulations adopted in this chapter.

Section 8-5. Service Connections. [Ord. No. 71, §5]

No person shall make any service connection or furnish electric current to any wiring or installation within or upon buildings or upon any premises of the city without first obtaining from the electrical inspector a service permit which shall certify that the material, wiring, fixtures, machinery or apparatus are approved and properly installed.

Section 8-6. Interference with Wires, Etc., Prohibited. [Ord. No. 71, §6]

No person shall interfere with, disarrange, break any of the wires, tubes, cables, lamps, lamp globes or other apparatus located in or on any street, alley or public place or prevent agents or employees of the owners thereof or the electrical inspector or his agents or employees from performing properly their respective duties.

Section 8-7. Permit and Inspection Fees. [Ord. No. 71, §7; Ord. No. 186, §1.; Ord. No. 2037 §2, 3-18-2008; Ord. No. 2149 §4, 12-7-2010]

Permit and inspection fees as set forth in the following schedule shall be paid.

Schedule of Fees for Electrical Inspection

Permit fee	$10.00
Temporary service inspection	$5.00
Temporary to permanent inspection	$5.00
Electrical rough in inspection	$5.00
Electrical final inspection	$5.00
Electrical outlets-first outlet	$5.00
Electrical outlets*-each additional	$0.50

* Electrical outlet is hereby defined as each and every point on an electrical system where power or light is derived for any purpose.

Section 8-7.1. Reinspection Charge. [Ord. No. 2149 §5, 12-7-2010]

(a) There is hereby established a reinspection charge of twenty dollars ($20.00), which shall be applicable to electrical reinspections where it has been determined that the initial inspection resulted in a failure to comply with the applicable construction code. The permit applicant shall be responsible for the payment of such reinspection charge which shall be payable within thirty (30) days of the inspection, after which such charge shall be considered overdue. No permits shall be issued to an applicant who has not remitted payment to the City for any overdue reinspection charges.

(b) All assessed reinspection fees must be paid prior to the request for a final inspection.

Section 8-7.2. Doubling. [Ord. No. 2149 §6, 12-7-2010]

The permit fees provided for in Section 8-7 above shall be doubled where work for which an electrical permit is required in Section 8-2 is commenced prior to obtaining the permit or filing of the application. The payment of such double fees shall not relieve any person from fully complying with all provisions regulating such construction.

Section 8-8. (Reserved) [1] [Superseded by Ord. No. 896 §1]

Section 8-9. Enforcement. [Ord. No. 71, §12]

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1. **Cross Reference — For Electrical Code see Section 5-3.7.1. of this Code which adopts the St. Louis County Electrical Code.**

It shall be the duty of the chief of police and the members of the police force to report to the building commissioner or the department of public works of the county, office of electrical inspection, any violations of the provisions of this chapter, and all policemen shall note all building operations and, if a permit has not been issued, they shall promptly report the same as herein required, and shall execute the orders of the office of electrical inspection relative to the suspension of any work on any property.

Section 8-10. Exemptions from Chapter. [Ord. No. 71, §13]

The provisions of this chapter with reference to permits and inspections shall not apply to electric light, heat and power companies making installations about their own plants or equipment and operating under city franchise.

Chapter 9

EXPLOSIVES

Cross Reference — For Explosives Code see Section 5-3.7.1. of this Code which adopts the St. Louis County Explosives Code.

Chapter 9A

FINANCE AND TAXATION

Section 9A-1. Sales Tax. [Ord. No. 303]

Pursuant to the authority granted by and subject to the provisions of House Committee Substitute for House Bill 243, passed by the 75th General Assembly of the state, a tax for general revenue purposes is hereby imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in section 144.010 to 144.510 of the Revised Statutes of Missouri, and the rules and regulations of the director of revenue issued pursuant thereto. The rate of the tax shall be one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the city, if the property and services are subject to taxation by the state under the provisions of sections 144.010 to 144.510 of the Revised Statutes of Missouri. The tax shall become effective as provided in subsection 4 of section 2 of House Committee Substitute for House Bill 243, and shall be collected as provided in House Committee Substitute for House Bill No. 243.

Chapter 9AA

FAIR HOUSING CODE

Section 9AA-1. Definitions. [Ord. No. 598, §1; Ord. No. 634, §2; Ord. No. 1035 §1, 9-15-1992]

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

CHAIRMAN — The chairman of the Planning and Zoning Commission, functioning here as the chairman of the fair housing commission and human rights commission of the city.

CODE — The city Fair Housing Code.

COMMISSION — The City Planning and Zoning Commission, functioning here as the Fair Housing Commission and Human Rights Commission of the City.

DISCRIMINATORY HOUSING PRACTICE — An act that is unlawful under section 9AA-2.

DWELLING — Any building, structure or portion thereof located within the city which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

FAMILY — Includes a single individual.

TO RENT — Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Section 9AA-2. Discrimination in Sale or Rental of Housing and on the Basis of Handicapped Status — Unlawful Practices Enumerated. [Ord. No. 598, §1; Ord. No. 1035 §2, 9-15-1992]

Except as exempted by section 9AA-3, it shall be unlawful for any person to:

(a) 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 because of race, color, religion, national origin or sex.

(b) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin or sex.

(c) Make, print or publish, or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that

indicates any preference, limitation or discrimination based on race, color, religion, national origin or sex, or an intention to make any such preference, limitation or discrimination.

(d) Represent to any person because of race, color, religion, national origin or sex that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(e) For profit, induce or attempt to induce any person to sell or rent any dwelling by representation regarding the entry or prospective entry into the neighborhood of a person of a particular race, color, religion, national origin or sex.

(f) Discriminate on the basis of handicapped status in the admission of or access to or employment in the programs or activities of the City.

Section 9AA-3. Same — Exemptions. [Ord. No. 598, §1]

Nothing in this Code shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin or sex. Nor shall anything in this Code prohibit a private club not in fact open to the public which, as an incident to its primary purpose, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

Section 9AA-4. Discrimination in Financing of Housing. [Ord. No. 598, §1]

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of the race, color, religion, national origin or sex of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the dwelling in relation to which such loan or other financial assistance is to be made or given.

Section 9AA-5. Discrimination in Provision of Brokerage Services. [Ord. No. 598, §1]

It shall be unlawful for any person to deny any person access to or membership or participation in any multiple-listing service, real estate broker's organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, color, religion, national origin or sex.

Section 9AA-6. Administration of Chapter. [Ord. No. 598, §1]

The authority and responsibility for administering this Code shall be in the commission. The commission shall administer this Code in a manner affirmatively to further the policies of this Code and to prevent or eliminate discriminatory housing practices. The commission shall cooperate with and render technical assistance to federal, state, local or other public or private agencies, organizations and institutions which are formulating or carrying out programs to prevent or eliminate discriminatory housing practices.

Section 9AA-7. Complaint Procedure. [Ord. No. 598, §1]

(a) Any person claiming to be aggrieved or injured by a discriminatory practice prohibited by this chapter or who believes that he will be irrevocably aggrieved or injured by a discriminatory practice prohibited by this chapter which is about to occur may file a complaint with the commission. All complaints shall be in writing, shall be signed by the complainant on his oath, shall state the facts upon which the complaint is based and shall contain such other information and shall be in such form as the commission may require. All complaints may be reasonably and fairly amended at any time with leave of the commission. All complaints shall be filed within sixty days after occurrence of the alleged discriminatory practice. A copy of a complaint and all amendments thereto shall be given to the person who allegedly has committed or who allegedly is about to commit a discriminatory practice. The commission shall investigate and determine, within thirty days after receiving a complaint, if cause exists for the allegations made in the complaint. If the commission finds cause for complaint, it shall have thirty days in which to eliminate or correct the alleged discriminatory practice by informal methods of conference, conciliation and persuasion. If the commission finds no cause for complaint, it shall dismiss the complaint.

(b) The commission or any member may issue a complaint against any person who it has reason to believe has engaged in a discriminatory practice prohibited by this chapter.

(c) An answer to a complaint may be filed by the person who allegedly has committed or who allegedly is about to commit a discriminatory practice. Answers shall be in writing, shall be signed by each respondent on his oath, shall state the facts upon which the answer is based and shall contain such other information and shall be in such form as the commission may require. All answers shall be filed within five days prior to any hearing of the matters alleged in the complaint; except, that when requested in writing and for good cause shown, the commission may permit the filing of an answer at any time. Answers may be reasonably and fairly amended at any time with leave of the commission. A copy of an answer and all amendments thereto shall be given to the complainant.

(d) If informal methods of conference, conciliation and persuasion fail, the commission shall set a date for hearing of the matters alleged in the complaint, which date shall be within thirty days after expiration of the period established for such informal methods or after earlier determination by the commission that such informal methods have failed. The commission shall give written notice to the complainant

and respondent as to the day, hour, place and purpose of the hearing and shall supply them with a copy of the commission's rules of procedure. Written notice of the hearing shall be given to each complainant and respondent at least fifteen days prior to the date of hearing. The hearing shall be open to the public.

(d) Hearings shall be conducted in a fair and impartial manner according to the commission's rules of procedure. Each complainant and respondent may appear with legal counsel and shall have the right to present proof, examine witnesses and in all manner be fully heard in all matters relating to the complaint and subsequent related occurrences. With the consent of the complainant, the commission may appoint as its legal counsel the city prosecuting attorney's office to present the case in support of the complaint.

(e) Within twenty days after a hearing, if upon all the evidence a majority of the members of the commission in attendance at the hearing find that a respondent has engaged in or is about to engage in a discriminatory practice prohibited by this chapter, the commission shall issue its findings of fact and determination and its order to cease and desist, or other appropriate order, and shall cause such order to be served upon each complainant and respondent.

(f) Within twenty days after a hearing, if upon all the evidence a majority of the members of the commission in attendance at the hearing do not find that a respondent had engaged in or is about to engage in a discriminatory practice prohibited by this chapter, the commission shall issue its findings of fact and determination and its order dismissing the complaint, and any other appropriate order, and shall cause such order to be served upon each complainant and respondent.

Section 9AA-8. Rehearings. [Ord. No. 598. §1]

Within ten days following the issuance by the commission of its findings of fact and determination and order or orders, any complainant or respondent may file with the commission a written motion for rehearing which shall be granted upon the affirmative vote of at least a majority of the members of the commission in attendance at the hearing.

No rehearing shall be had except in cases where a material fact becomes known subsequent to the hearing and where such material fact was not known or could not have been known to the party requesting the rehearing either before or during the hearing by the application of reasonable diligence.

Section 9AA-9. Enforcement by City Prosecuting Attorney. [Ord. No. 598, §1]

The commission shall certify the entire case to the city prosecuting attorney for appropriate action in cases of noncompliance with its order to cease and desist or other appropriate order.

Section 9AA-10. Penalties. [Ord. No. 598, §1]

(a) Any person who shall commit a discriminatory practice in violation of this chapter shall, upon conviction therefor, be punished for each such violation by a fine of not less than fifty dollars nor more than five hundred dollars.

(b) In addition to the above penalties, the city prosecuting attorney shall take such other actions at law or in equity as may be required to correct or eliminate any violations of this chapter.

Chapter 10

FIRE PROTECTION

Section 10-1. Fire District Established. [Ord. No. 96, § 1; Ord. No. 175, § 2]

There is hereby established within the city a fire district, which fire district shall comprise the following areas as such are designated in the city zoning regulations and the district map:

District F - Multiple Family District.
District G - Commercial District.
District H - Light Industrial District.
District I - Heavy Industrial District.

Section 10-2. Volunteer Fire Department Designated as City Fire Department. [Ord. No. 96, § 2]

The Eureka Volunteer Fire Department is hereby appointed as the fire department of and for the city, when engaged in fire fighting and fire prevention activities within the city.

Section 10-3. Fire Chief Appointed Fire Marshal. [Ord. No. 96, § 3]

The chief of the fire department is hereby appointed fire marshal for the city.

Section 10-4. Inspections for Locating Fire Hazards. [Ord. No. 96, § 4]

It shall be the duty of the chief of the fire department, in his official capacity as the city fire marshal, to inspect or cause to be inspected by qualified fire department officers or members, as often as may be necessary, but not less than twice a year, all buildings, premises and public thoroughfares, except private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire. A written report of every such inspection shall be filed with the city clerk by the inspector. Such inspector may at all reasonable hours enter any building or premises for the purpose of making any inspection which, under the provisions of this chapter, he may deem necessary to be made.

Section 10-5. Order to Remove Fire Hazards. [Ord. No. 96, § 5]

Whenever an inspector may find combustible or explosive matter or dangerous accumulation or rubbish or unnecessary accumulation of waste paper, boxes, shavings or other highly flammable materials especially liable to cause fires, and which is so situated as to endanger property or shall find obstructions to or on fire escapes, stairs,

passageways, doors or windows liable to interfere with the operations of the fire department or egress of occupants in case of fire, he shall order the same to be removed or remedied. Such order shall be complied with within forty-eight hours by the owner or occupant of such premises or building.

Section 10-6. Burning of Trash, Leaves, Etc. [Ord. No. 96, § 6]

Burning of trash, lumber, leaves or other combustible material where deemed a hazard by the chief of the fire department is prohibited except under such safeguards as he may specify.

Section 10-7. Disposal of Ashes, Embers, Etc. [Ord. No. 96, § 7]

Ashes, smoldering coals or embers, greasy or oily substances liable to spontaneous ignition shall not be deposited or allowed to remain within ten feet of any combustible materials except in metal or other noncombustible receptacles.

Section 10-8. Accumulations of Litter, Flammable Wastes, Etc., Prohibited. [Ord. No. 96, § 8]

No person shall permit to remain upon any roof or in any yard any accumulation of waste paper, hay, grass, straw, weeds, litter or combustible or flammable waste or rubbish of any kind. All such materials in stores, commercial buildings, factories or similar places shall be compactly baled and stacked, removed from the premises or stored in suitable vaults or receptacles to the satisfaction of the chief of the fire department.

Section 10-9. Use of Flammable Material to Decorate Stores, Places of Public Assembly. [Ord. No. 96, § 9]

Cotton, batting, straw, dry vines, leaves, trees, celluloid or other highly flammable materials shall not be used for decorative purposes in stores or show windows except where deemed satisfactory by the chief of the fire department. Paper and other readily flammable materials shall not be used for decorative purposes in any place of public assembly unless such materials have been flameproofed to the satisfaction of the chief of the fire department.

Section 10-10. Appeal from Order Issued Pursuant to Chapter. [Ord. No. 96, §10]

Any owner, lessee, agent, operator, or occupant aggrieved by any order issued pursuant to this chapter, may file an appeal to the city board of aldermen within ten days from the service of such an order, and the board of aldermen shall fix a time and place not less than five days nor more than ten days thereafter when and where such appeal may be heard by it. Such appeal shall stay the execution of such order until it has been heard and reviewed, vacated or confirmed. The board of aldermen shall at such hearing affirm, modify, revoke or vacate such order. Unless revoked or vacated, such order shall be thereupon complied with.

Section 10-11. Standards of Good Fire Protection Practice. [Ord. No. 257, §1]

All matters not covered by this chapter shall conform with generally accepted good practice. The Building Code as recommended by the American Insurance Association and various standards published by the American Insurance Association and the National Fire Protection Association shall be deemed the generally accepted good practices for the construction and equipment of buildings and the fire protection and life safety in connection with hazardous materials and processes. Fire resistance ratings of floor, ceiling, wall and partition assemblies as published by the American Insurance Association and by Underwriter's Laboratories, Inc. shall be deemed acceptable to establish fire resistance ratings required by this chapter.

Section 10-12. Self-Service Gasoline Service Stations. [Ord. No. 213, §1]

It shall be unlawful for any person to own or operate within the city any type of automobile service station or any other establishment upon the premises of which is installed any coin-operated machine, device or apparatus, or any other type of self-service gasoline dispensing machine, device, apparatus or system which automatically dispenses gasoline, by means of which individual customers are enabled to serve themselves with gasoline, unless such automobile service station or establishment has at least one employee in attendance on the premises at all times from 12:01 A.M. to 12:00 Midnight each day.

Section 10-13. Private Use of City Fire Hydrants. [Ord. No. 462, §3; Ord. No. 616, §1]

(a) No person shall use, turn on or tamper with a fire hydrant within the City limits unless authorized by a City of Eureka private use of City fire hydrants permit. A permit for the private use of a City fire hydrant may only be issued to an individual or business concern located within the Eureka City limits, or in the case of a business concern, the property being serviced by such water must be located within the Eureka City limits. [Ord. 2249 §1, 12-18-2012]

(b) The foregoing prohibition shall not apply to personnel of the city nor shall it apply to personnel of the Eureka Fire Protection District when they are engaged in official fire fighting or fire prevention or in training activities authorized by the city.

(c) Persons desiring to use water from city fire hydrants shall first pay a deposit for such use based on the number of hours proposed to be used multiplied by the following per hour charge for water, which is based on the size hose to be connected to the fire hydrant:

Hose Size	**Per Hour Charge**
1 5/8" to 2 1/2"	$18.00
1 1/2" or smaller	$10.00

This deposit shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base

period. All such computation of increases made as provided herein shall be rounded to the nearest fifty-cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

The user of water under these circumstances shall be liable for payment of the cost of the water actually used as calculated at the foregoing hourly rates and shall be entitled to a credit against such cost to the extent of the deposit made.

Chapter 10A

FLOODPLAIN MANAGEMENT

Editor's Note — Ord. no. 1561 § 1, adopted October 2, 2001, repealed this entire chapter 10A enacting the new provisions set out herein. Former ch. 10A derived from ord. no. 801 § 2; ord. no. 805 § 1; ord. no. 1000 §§ 1-3, 9-3-1991; ord. no. 1178 § 1, 6-20-1995; ord. no. 1256 § 1, 10-15-1996; ord. no. 1403 §§ 1-2, 4-20-1999.

ARTICLE I
Statutory Authorization, Findings of Fact and Purposes

Section 10A-1. Statutory Authorization. [Ord. No. 1561 §1, 10-2-2001]

The legislature of the State of Missouri has in Chapter 89.020, RSMo., delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety and general welfare. Therefore, the Board of Aldermen of Eureka, Missouri, ordains as follows.

Section 10A-2. Findings of Fact. [Ord. No. 1561 §1, 10-2-2001]

(a) *Flood Losses Resulting From Periodic Inundation.* The special flood hazard areas of Eureka, 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 (1%) chance of occurrence in any one (1) year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated August 2, 1995, 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 (1) 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.

Section 10A-3. Statement of Purpose. [Ord. No. 1561 §1, 10-2-2001]

It is the purpose of this Chapter to promote the public health, safety and general welfare; to minimize those losses described in Article I, Section 10A-2(a); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this Chapter to:

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flooding or cause undue increases in flood heights or velocities;

(2) Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and

(3) Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

ARTICLE II
Definitions

Section 10A-4. Definitions. [Ord. No. 1561 §1, 10-2-2001]

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 — The same as "Appurtenant Structure".

ACTUARIAL RATES — See "Risk Premium Rates".

ADMINISTRATOR — The Federal Insurance Administrator.

AGENCY — The Federal Emergency Management Agency (FEMA).

APPEAL — A request for review of the Floodplain Administrator's interpretation of any provision of this Chapter or a request for a variance.

APPURTENANT STRUCTURE — A structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

BASE FLOOD — The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

BASEMENT — 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 — The official of the community who is charged with the authority to implement and administer laws, ordinances and regulations for that community.

COMMUNITY — 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 — Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

ELEVATED BUILDING — 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 — A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

EXISTING CONSTRUCTION — 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 — 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 — 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 — A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland; and/or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — 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 — A determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

FLOOD ELEVATION STUDY — An examination, evaluation and determination of flood hazards.

FLOOD FRINGE — The area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

FLOOD HAZARD BOUNDARY MAP (FHBM) — 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) — 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) — An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOODPLAIN or FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source (see "Flooding").

FLOODPLAIN MANAGEMENT — 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 — 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 — Any combination of structural and non-structural 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 — 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 (1) foot.

FLOODWAY ENCROACHMENT LINES — The lines marking the limits of floodways on Federal, State and local floodplain maps.

FREEBOARD — 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 — 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 — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

(a) 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;

(b) 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;

(c) 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

(d) Individually listed on a Local Inventory of Historic Places in communities with historic preservation programs that have been certified either:

    (1) By an approved State program as determined by the Secretary of the Interior; or

    (2) Directly by the Secretary of the Interior in States without approved programs.

LOWEST FLOOR — 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 — A structure, transportable in one (1) 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 — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MAP — 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).

EFFECT VALUE or FAIR MARKET VALUE — An estimate of what is fair, economic, just and equitable value under normal local market conditions.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

NEW CONSTRUCTION — For the purposes of determining insurance rates, 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 — 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) — The National Flood Insurance Program (NFIP).

PARTICIPATING COMMUNITY, ALSO KNOWN AS AN ELIGIBLE COMMUNITY — 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 — At least fifty-one percent (51%) of the actual cash value of the structure, less land value, is above ground.

RECREATIONAL VEHICLE — A vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projections;

(c) Designed to be self-propelled or permanently towable by a light-duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REMEDY A VIOLATION — 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 non-compliance.

RISK PREMIUM RATES — 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 — 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 one hundred eighty (180) days of the permit date. The *"actual start"* means either the first (1st) 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 (1st) 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 — 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 — 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 — Damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before *"start of construction"* of the improvement. This term includes structures which have incurred *"substantial damage"*, regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications that have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions, or

(b) Any alteration of a *"historic structure"*, provided that the alteration will not preclude the structure's continued designation as a *"historic structure"*.

VARIANCE — 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 — 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 — 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.

ARTICLE III
General Provisions

Section 10A-5. Lands to Which This Chapter Applies. [Ord. No. 1561 §1, 10-2-2001]

This Chapter shall apply to all lands within the jurisdiction of the City of Eureka identified as numbered and unnumbered A Zones and AE Zones on the Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) dated August 2, 1995, 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 Eureka Building Department or its duly designated representative under such safeguards and restrictions as the Eureka Building Department 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 V.

Section 10A-6. Floodplain Administrator. [Ord. No. 1561 §1, 10-2-2001]

The Building Commissioner is hereby designated as the Floodplain Administrator under this Chapter.

Section 10A-7. Compliance. [Ord. No. 1561 §1, 10-2-2001]

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.

Section 10A-8. Abrogation and Greater Restrictions. [Ord. No. 1561 §1, 10-2-2001]

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.

Section 10A-9. Interpretation. [Ord. No. 1561 §1, 10-2-2001]

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.

Section 10A-10. Warning and Disclaimer of Liability. [Ord. No. 1561 §1, 10-2-2001]

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 manmade 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 Eureka, any officer or employee thereof, for any flood damages that may result from reliance on this Chapter or any administrative decision lawfully made thereunder.

Section 10A-11. Severability. [Ord. No. 1561 §1, 10-2-2001]

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.

ARTICLE IV

Administration [1]

Section 10A-12. Floodplain Development Permit (Required). [Ord. No. 1561 §1, 10-2-2001]

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 III, Section 10A-6. 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.

Section 10A-13. Designation of Floodplain Administrator. [Ord. No. 1561 §1, 10-2-2001]

The Building Commissioner is hereby appointed to administer and implement the provisions of this Chapter.

Section 10A-14. Duties and Responsibilities of Floodplain Administrator. [Ord. No. 1561 §1, 10-2-2001]

Duties of the Building Commissioner 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 Department of Natural Resources 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 maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished;

(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;

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[1]. **Editor's Note — Ord. no. 1812, enacted December 21, 2004, adopted administrative procedures for local floodplain regulations. These procedures are kept on file in the office of the Building Commissioner and may be amended administratively from time to time as deemed necessary by the staff.**

(8) Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;

(9) When floodproofing techniques are utilized for a particular non-residential structure, the Building Commissioner shall require certification from a registered professional engineer or architect.

Section 10A-15. Application for Floodplain Development Permit. [Ord. No. 1561 §1, 10-2-2001]

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;

(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 Building Commissioner;

(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.

ARTICLE V
Provisions for Flood Hazard Reduction

Section 10A-16. General Standards. [Ord. No. 1561 §1, 10-2-2001]

(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 (1) foot at any point within the community.

(d) All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

(1) Design or adequate anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Construction with materials resistant to flood damage;

(3) Utilization of methods and practices that minimize flood damages;

(4) All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and

(6) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:

(a) All such proposals are consistent with the need to minimize flood damage;

(b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

(c) Adequate drainage is provided so as to reduce exposure to flood hazards; and

(d) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

(e) *Storage, Material And Equipment.*

(1) The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

(2) Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

(f) *Accessory Structures.* Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than four hundred (400) square feet may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this Chapter; and a floodplain development permit has been issued.

Section 10A-17. Specific Standards. [Ord. No. 1561 §1, 10-2-2001]

In all areas in and adjacent to the areas identified as numbered and unnumbered A zones and AE zones, where base flood elevation data has been provided, as set forth in Article V, Section 10A-16(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 one (1) foot above base flood elevation.

(2) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated one (1) 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 IV, Section 10A-14(9).

(3) Require, for all new construction and substantial improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and

(b) The bottom of all openings shall be no higher than one (1) 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.

Section 10A-18. Manufactured Homes. [Ord. No. 1561 §1, 10-2-2001]

(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 one (1) 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 V, Section 10A-18(2) of this Chapter be elevated so that either:

(1) The lowest floor of the manufactured home is one (1) 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 thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

Section 10A-19. Floodway. [Ord. No. 1561 §1, 10-2-2001]

Located within areas of special flood hazard established in Article III, Section 10A-5 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

(1) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) 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 V, Section 10A-19(b) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V.

(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 V, Section 10A-16(b).

(5) No buildings shall be constructed within one hundred (100) feet of a designated floodway. (See stormwater management under Land Disturbance.)

Section 10A-20. Recreational Vehicles. [Ord. No. 1561 §1, 10-2-2001]

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 one hundred eighty (180) consecutive days and be fully licensed and ready for highway use[2]; or

(2) Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this Chapter.

ARTICLE VI
Floodplain Management Variance Procedures

Section 10A-21. Establishment of Appeal Board. [Ord. No. 1561 §1, 10-2-2001]

The Planning and Zoning Commission as established by the City of Eureka shall hear and decide appeals and requests for variances from the floodplain management requirements of this Chapter.

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2. **A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.**

Section 10A-22. Responsibility of Appeal Board. [Ord. No. 1561 §1, 10-2-2001]

(a) Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the Building Commissioner, the applicant may apply for such floodplain development permit or variance directly to the Appeal Board, as defined in Article VI, Section 10A-21.

(b) The Planning and Zoning Commission shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the Building Commissioner in the enforcement or administration of this Chapter.

Section 10A-23. Further Appeals. [Ord. No. 1561 §1, 10-2-2001]

Any person aggrieved by the decision of the Planning and Zoning Commission or any taxpayer may appeal such decision to the Circuit Court having jurisdiction as provided in Chapter 89.110, RSMo.

Section 10A-24. Floodplain Management Variance Criteria. [Ord. No. 1561 §1, 10-2-2001]

In passing upon such applications for variances, the Planning and Zoning Commission shall consider all technical data and evaluations, all relevant factors, standards specified in other Sections of this Chapter, and the following criteria:

(1) The danger to life and property due to flood damage;

(2) The danger that materials may be swept onto other lands to the injury of others;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The availability of alternative locations, not subject to flood damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

Section 10A-25. Conditions for Approving Floodplain Management Variances. [Ord. No. 1561 §1, 10-2-2001]

(a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) 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 (½) 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:

(1) A showing of good and sufficient cause.

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(f) A community shall notify the applicant in writing over the signature of a community official that:

(1) The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00) of insurance coverage; and

(2) Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required by this Chapter.

Section 10A-26. Conditions for Approving Variances for Accessory Structures. [Ord. No. 1561 §1, 10-2-2001]

(a) Any variance granted for an accessory structure shall be decided individually based on a case-by-case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article VI, Sections 10A-24 and 10A-25 of this Chapter.

(b) In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

(1) Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).

(2) For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation must be built with flood-resistant materials in accordance with Article V, Section 10A-16(d)(2) of this Chapter.

(3) The accessory structures must be adequately anchored to prevent flotation, collapse or lateral movement of the structure in accordance with Article V, Section 10A-16(d)(1) of this Chapter. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

(4) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article V, Section 10A-16(d)(4) of this Chapter.

(5) The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Article V, Section 10A-17(3) of this Chapter.

(6) The accessory structures must comply with the floodplain management floodway encroachment provisions of Article V, Section 10A-19(2) of this Chapter. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

(7) Equipment, machinery, or other contents must be protected from any flood damage.

(8) No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.

(9) A community shall notify the applicant in writing over the signature of a community official that:

(a) The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00) of insurance coverage; and

(b) Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Chapter.

(10) Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

ARTICLE VII
Penalties for Violation

Section 10A-27. Penalties for Violation. [Ord. No. 1561 §1, 10-2-2001]

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 five hundred dollars ($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 Eureka or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE VIII
Amendments

Section 10A-28. Amendments. [Ord. No. 1561 §1, 10-2-2001]

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 Eureka. At least twenty (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 Chapter are in compliance with the National Flood Insurance Program (NFIP) regulations.

Chapter 10B

LAND DISTURBANCE AND STORMWATER MANAGEMENT

Section 10B-1. Purpose; Limitation on Liability; Conflicts; Definitions; Administration and Enforcement. [Ord. No. 2307 §2, 7-15-2014]

(a) *Purpose.* The purpose of this Section is to protect the health, safety and property of the people of Eureka by regulating and controlling the disturbance of land surface areas as it relates to prevention of erosion on disturbed areas and drainage of stormwater within the City. It is intended to ensure that consideration is given to the preservation and restoration of natural features in the grading or development of any public or private land, that proper provisions are made to assure control of sediments resulting from rainfall on graded areas, and that adequate facilities are constructed for the management of stormwater to assure the movement of emergency vehicles is not inhibited during storm periods; to protect the public from rapidly flowing water or flash floods; to minimize storm and flood losses resulting from uncontrolled runoff and to establish requirements for construction of stormwater management facilities in newly developed areas.

(b) *Limitation on Liability Related to Stormwater Management Facilities.* Floods from stormwater runoff may occur which exceed the capacity of storm drainage facilities constructed and maintained as a result of this Section. This Section does not guarantee that properties will always be free from stormwater flooding or flood damage. This Chapter shall not create liability on the part of, or a cause of action against, the City or any officer or employee thereof for any flood damage, nor does this Section purport to reduce the need or the necessity of obtaining flood insurance.

(c) *Conflicts and Other Permits.* Where any provision of this Section imposes restrictions different from those imposed by any other law or regulation, whether State, Federal or local, whichever is more restrictive or imposes a higher standard shall control. All applicable permits required by Federal, State and/or County agencies including, but not limited to, the United States Army Corps of Engineers, United States Federal Emergency Management Agency, Missouri Department of Natural Resources, Missouri Department of Conservation, and St. Louis County shall be secured by the property owner or developer and attached to the City's land disturbance permit application form.

(d) *Definitions.* For the purposes of this Chapter, the following words and phrases shall have the meanings given herein.

AGRICULTURAL ACTIVITY — Normal farming operations, including improvements conducted under the auspices of the Soil Conservation Service.

BOARD — The Board of Aldermen of the City of Eureka, Missouri.

CRITICAL DOWNSTREAM LOCATION — A location within the drainage reach downstream of the subject site, consisting of a channel section, drainage swale, bridge, box culvert, storm sewer, or other conveyance facility or structure having a conveyance capacity which would be exceeded by stormwater runoff from a fifteen-year frequency, twenty-four-hour duration storm under existing land use conditions; or an existing structure or building located downstream of the subject site which has its lowest floor elevation less than one (1) foot above the maximum elevation in an adjacent channel attained by the one-hundred-year frequency, twenty-four-hour duration storm, assuming existing land use conditions with the proposed ultimate development of the subject site in place. The conveyance capacity of a structure operating under inlet control conditions shall be determined with a maximum headwater to diameter ratio (HW/D) of 1.25 with a headwater elevation equal to the top of curb, whichever is less.

BUILDING COMMISSIONER — The agent of the City of Eureka having primary responsibilities for enforcement of this Chapter.

DESIGN YEAR STORM — The selected or established frequency or return period of rainfall time-duration for which drainage facilities are to be designed.

DEVELOPMENT — Any change of land use or improvement on any parcel of land.

DRAINAGE BASIN (OR WATERSHED) — The catchment area from which stormwater is carried off by a watercourse or storm drainage system. The area served by a drainage system receiving storm and other surface-borne water. The definition of "drainage basin" boundaries is a product of natural topography and drainage system configuration.

DRAINAGE FACILITY — A man-made structure or natural watercourse for the conveyance of storm runoff. Examples are channels, pipes, ditches, swales, catch basins and street gutters.

IMPERVIOUS SURFACE — Surfaces on real property where infiltration of stormwater into the earth has been virtually eliminated by acts of humankind. Impervious surfaces shall include, but not be limited to roofs, paved driveways, patio areas, sidewalks, parking lots, storage areas and other oil or macadam surfaced areas which prevent percolation of stormwater into the earth's surface.

LAND DISTURBANCE — Any activity including mechanized clearing which removes the vegetative ground cover.

LAND DISTURBANCE PERMIT — A permit issued by the City that authorizes the commencement of land disturbance activities.

OWNER — Any person having legal title to, or a proprietary interest in, real property. Proprietary interest shall include, but not be limited to, estate administration, trusteeship, guardianship or actions under a valid power of attorney.

PEAK RUNOFF — The maximum rate at which stormwater travels across the surface of the ground.

SITE — The total area of the parcel, tract, lot or ownership of land upon which development or land disturbance is proposed irrespective of the actual limits or size of the proposed development or land disturbance activity.

STORM DRAIN — A closed conduit or open ditch, natural or specifically constructed, for conducting or conveying collected stormwater. Conduits and paved open ditches are termed "improved"; unpaved ditches are termed "unimproved."

PRIVATE STORM DRAINAGE SYSTEM — A drainage facility which serves only one (1) particular site and does not collect or transport stormwater from any drainage basin or roadway outside the site.

PUBLIC STORM DRAINAGE SYSTEM — Any drainage facility which serves more than one (1) property and collects or transports runoff from off site.

STORM DRAINAGE DESIGN — Design shall be in accordance with the requirements of the Metropolitan St. Louis Sewer District in the development of minor storm drainage systems, such as storm drains, relatively small culverts, associated streets and gutter flow hydraulics, natural drainage swales, storm inlets and detention facilities.

SWALE — A wide shallow ditch used to carry storm runoff.

TOPSOIL — Top organic layer of the soil profile.

TREE — Any self-supporting woody perennial plant, usually with one (1) main stem or trunk. For purposes of identifying existing trees, deciduous shade trees shall have a four-inch caliper, measured four and one-half (4½) feet above the ground and ornamental evergreen species shall be a minimum of six (6) feet in height.

TREE CANOPY COVERAGE — The area in square feet of a tree's spread determined by measuring the ground surface area that is covered by the branch spread of a single tree or clump or grove of trees.

UNIMPROVED LAND — Land or property having little or no impervious surface.

WATERCOURSE — A stream, usually flowing in a particular direction (though it need not flow continuous in a definite channel), having a bed or banks and usually discharging into some other stream or body of water.

(e) *Administration And Enforcement.* The provisions of this Chapter shall be administered and enforced by the Building Commissioner of the City of Eureka.

Section 10B-2. Land Disturbance Permit Requirements. [Ord. No. 2307 §2, 7-15-2014]

(a) A land disturbance permit is required for any land disturbance activity, including streets and utilities construction on any site in excess of one (1) acre in area, including projects less than one (1) acre that are part of a larger common plan or development or sale. All applications shall be submitted on forms issued by the City and shall contain all information as required. Land disturbance permit applications must be reviewed and approved by the Board of Aldermen prior to issuance.

(b) Applications for land disturbance permits shall be accompanied by a detailed site development plan which shall include proposed tree clearing limits, a landscaping plan when applicable, a soil erosion control plan, and a stormwater pollution prevention plan (SWPPP) conforming to the provisions of this Section. Proposed tree clearing limits must be defined in a manner so as to be readily discernable (such as by aerial photographs and/or physical surveys and tree inventories). Such tree clearing limits must be represented in a manner that allows that which is authorized to be accurately translated to the subject property by stakes, paint, flags or other highly visible means. Where practical, drawings may be combined to contain all of the required components.

(c) On land being platted, approval of the site development plan shall be required prior to approval of the final plat (final plan in planned districts) and shall encompass the entire area being final platted or developed.

(d) A land disturbance permit shall not be required for sites of less than one (1) acre except as noted elsewhere in this Chapter.

(e) Agricultural activities as defined in Section 10B-1 are exempt from the provisions of this Chapter except that a land disturbance permit is required for the mechanized clearing and removal of trees on sites in excess of one (1) acre.

(f) An escrow agreement shall be in place with the City prior to issuance of the land disturbance permit. The escrow agreement shall include costs for revegetation, siltation control, erosion control and any other improvements related to accomplishing grading operations. Escrow requirements shall be in accordance with Section 10B-22.

(g) At all times during any period of construction, remodel or renovation, the adjoining ground, streets (private or public), sidewalks and storm sewers shall be protected from accelerated and increased surface water, silt from erosion, and any other consequences of erosion.

(h) Grading plans for more than one (1) acre shall provide sediment basins, diversions, grass waterways, protective fencing or barriers to avoid damage to adjoining properties, roads, streets, ditches and storm sewers. Said protective measures shall be installed prior to the commencement of grading by the applicant.

(i) A separate escrow agreement shall be included for the replanting of trees on the entire portion of the disturbed property. The escrow shall be for thirty (30) trees per acre and in accordance with the escrow requirements specified in Section 10B-22. This escrow shall remain in place until such time that other required escrows are in place for public improvements or construction of improvements has begun on a development not requiring escrows for public improvements.

(j) The limits of clearing shall be staked and/or marked and approved by the City prior to the start of any land disturbance activities. City staff may require photographic or videographic documentation of field conditions prior to and following land disturbance activities.

(k) A land disturbance permit shall be obtained from the Missouri Department of Natural Resources for all land disturbance areas greater than one (1) acre or as amended by changes in the regulations. A copy of the permit shall be provided to the City prior to commencing land disturbance activities.

(l) Land disturbance activity authorized under this Section must commence within six (6) months from the date of Board of Aldermen approval.

(m) Land disturbance permits are valid for a period of one (1) year from the date of Board of Aldermen approval; however, the Board may authorize extensions of such permits.

(n) The failure to comply with the requirements of this Section shall be punishable in Municipal Court with a maximum fine of seven hundred fifty dollars ($750.00) for each day the violation exists and be subject to the imposition of a stop-work order. Additionally, each tree three (3) inches or greater in caliper that is removed in excess of that which is authorized on the plan which depicts tree clearing limits shall be punishable in Municipal Court pursuant to the general penalty provisions as set forth in Section 1-7 of this Code.

Section 10B-3. Tree Preservation and Landscaping Requirements. [Ord. No. 2307 §2, 7-15-2014]

(a) The destruction within any two-year period of more than ten percent (10%) of the trees on any parcel of land subject to the provisions of this Chapter shall be prohibited without first obtaining any land disturbance permit.

(b) It shall be required that a minimum of twenty percent (20%) of existing trees exclusive of acreage contained within any street right-of-way shall be retained after development. In determining such existing tree retainage, physical counts of individual trees shall be utilized; however, as approved by the City, percentage of tree canopy coverage may be utilized to satisfy this requirement. All cleared or disturbed areas shall be planted with trees of species and specifications as required by the City, thirty (30) trees per acre, in the following areas:

(1) Residential developments: outside the boundaries of individual lots, to include common ground, easements (as approved by the City), park areas, exterior slopes of detention basins, etc.

(2) Other developments: in areas not occupied by improved surfaces, except in areas in the front of buildings.

(c) A landscaping plan demonstrating compliance with the specific requirements of the existing zoning of the site shall accompany all applications for land disturbance permits. The plan will be a drawing of the site sufficient in detail to illustrate the features of the plan. The plan may be incorporated with other drawings or documents but shall contain the following information.

(1) The number, location, species, height and size in diameter [measured four and one-half (4½) feet above grade] of existing natural trees which are to be maintained or preserved for credit.

(2) The number, spacing, size and species of planting materials, including new trees and final ground cover, that will be planted as part of the landscaping plan.

(3) The size and location of any walls, earth berms and fences.

(4) Provisions for watering, soil stabilization, plant protection and maintenance.

(5) Location and description of any barriers to be erected to protect any vegetation from damage both during and after construction.

(d) Tree protection shall be required prior to and during the activities associated with the land disturbance permit in accordance with administrative standards promulgated and enforced by the Building Commissioner but under no circumstances shall activities with the potential of causing damage to the root systems of trees be allowed within perimeter of the drop line of the trees being preserved, protected or planted as part of the landscaping plan.

(e) If any of the trees required to be retained or trees planted as part of the landscaping plan should die within a period of twenty-four (24) months after completion of the activities associated with the land disturbance permit, the owner of the property shall replace said trees at a ratio of one (1) to one (1) with an approved tree having a minimum diameter of two (2) inches measured at a point one (1) foot above natural grade. Shrubbery or other plantings which die within twenty-four (24) months of completion of the activities shall be replaced in kind.

(f) All landscaping work must be completed prior to the final inspection of a building or within one (1) year of issuance of the land disturbance permit, whichever is greater. If completion of the work or building is at such time of the year that the landscaping cannot be completed, a performance bond or other acceptable financial instrument for completion of the work may be accepted to allow the issuance of a certificate of use and/or occupancy.

(g) Landscaping plans may be amended during or after development with the approval of the Building Commissioner but in all cases must comply with the current landscaping requirements of the zoning district in which the site is located.

Section 10B-4. Erosion Control Requirements. [Ord. No. 2307 §2, 7-15-2014]

(a) *Erosion Control Requirements - Generally.*

(1) A soil erosion control plan shall be required prior to the issuance of any applicable land disturbance permit. The purpose of the plan is to clearly establish what measures will be taken to prevent erosion and off-site sedimentation during and after development. The erosion control plan shall consist of three (3) parts, a site grading and drainage plan, a schedule of work including revegetation of disturbed areas, and a narrative report describing the

nature and scope of the work. The plan shall be prepared and certified by a registered professional engineer licensed in the State of Missouri.

(2) Erosion and sedimentation control measures must be designed to provide protection from the runoff from a fifteen-year return frequency, twenty-minute peak runoff in accordance with the runoff rates established by Metropolitan St. Louis Sewer District. In shopping centers containing a minimum area of five hundred thousand (500,000) square feet, temporary erosion control measures shall be designed so as to accommodate a five-year frequency, twenty-four-hour storm.

(3) All surfaces must be stable and non-erosive within thirty (30) working days after rough grading. All areas of grading shall be revegetated within ninety (90) days after rough grading has ceased. In no case shall any portion of the site be void of vegetation for a period of more than one (1) year. When such work is associated with the construction of a building, no certificate of use and/or occupancy shall be issued until such surfaces are stable and non-erosive. If completion of the work or building is at such time of the year that stabilization with ground cover is not possible, a performance bond or other acceptable financial instrument for completion of the work may be accepted to allow the issuance of a certificate of use and/or occupancy.

(4) The finished grade of any lot shall be established in compliance with the approved grading permit and plan on file with the City prior to the sale, conveyance or use as a display of any lot or parcel of land located within the City. All lots shall be seeded and strawed or sodded within ten (10) days after completion of the finish grading and prior to the issuance of an occupancy permit, except that a temporary occupancy permit may be issued by the Building Commissioner in cases of undue hardship because of unfavorable ground or weather conditions so long as a bond or other acceptable financial instrument is issued to the City. In those cases where a temporary occupancy permit is issued, the lot shall be seeded and strawed or sodded at the earliest possible time as determined by the Building Commissioner. The failure to comply with a directive of the Building Commissioner to seed and straw or sod shall be an offense punishable in the Municipal Code for each day such directive is not complied with, subject to a maximum penalty of seven hundred fifty dollars ($750.00) per day, and be subject to the imposition of a stop-work order in addition to other remedies available to the City under the performance bond or financial instrument.

(5) The applicant shall notify the Building Commissioner, in writing, when rough grading and finish grading before seeding or sodding shall be completed. The Building Commissioner shall make field inspections after rough grading, after finish grading before seeding or sodding, and after seeding or sodding have been completed to determine that the work has been performed in accordance with City Codes.

(b) *Site Grading And Drainage Plan.* The site grading and drainage plan shall include the following:

(1) *Existing features.*

a. A drainage area map showing topography of the entire drainage basin(s) contributing to the site. The scale of the map shall be no smaller than one (1) inch equals two thousand (2,000) feet. The drainage map is to show total acreage of the site and the acreage of all drainage areas contributing to the site. A drainage area map of the site having a scale no smaller than one (1) inch equals fifty (50) feet shall also be submitted to show interior drainage areas as well as drainage through the site. Proposed drainage facilities shall be shown on this map.

b. A site plan having a scale no smaller than one (1) inch equals fifty (50) feet and existing contour intervals of not more than five (5) feet. The plan shall show topographic features, such as highways, utilities, natural watercourses, existing drainage facilities and structures, adjacent property lines, North arrow, scale and vicinity map. The site plan is to also show the limits of the adopted one-hundred-year floodplain on the site and any critical environmental areas, such as streams, lakes, ponds and wetlands. The nature and extent of existing vegetation shall also be shown on the plan.

(2) *Proposed alterations of the site.*

a. A plan drawing that shows the limits of clearing and grading, cuts and fills, and final contours at not more than two-foot intervals. The plan shall also show the location and type of all erosion and sediment control devices which shall remain in place and be maintained until new vegetation has been established. The plan shall identify the phasing of the grading, showing the area(s) to be denuded and the maximum time those areas will remain disturbed [not to exceed thirty (30) working days after completion of the work]. The plan shall show areas to be used for storage of topsoil and excavated subsoil and plans for access to the site during wet weather. No topsoil shall be removed from the site. The volume of any subsoils to be removed from the site shall be illustrated on the grading plan.

b. A final site plan showing the location or relocation of all utilities, planned streets, roads, buildings, parking lots, and structures, and all permanent stormwater management facilities.

c. Topsoil shall be redistributed over the site and incorporated with the top six (6) inches of the finished grade.

(3) *Temporary erosion and sediment control measures during active construction.* Drawings shall be provided showing types of measures and facilities needed, the location of those measures and facilities with dimensional details. All permanent deviations in overland flow drainage patterns and the location of ingress and egress points with the planned protection provisions are to be indicated.

(4) *Permanent erosion and sediment control measures for long-term protection.* Drawings shall be provided showing types of measures, any facilities needed, the location of those measures and facilities with dimensional details. All permanent deviations in overland flow drainage patterns are to be indicated.

(c) *Narrative Report To Accompany Plan.*

(1) A brief description of the overall project shall incorporate an explanation of existing significant drainage problems contributing to erosion and siltation problems, particularly those that will be intensified by the alteration to the construction site.

(2) The project design should insure that it does not promote or aggravate an existing off-site erosion, siltation or drainage problem. The narrative should include a description of the effect of land disturbing activities off site.

(3) Runoff-producing factors under existing conditions and the estimated changes after construction must be provided.

(4) For design of the erosion control measures and facilities, the peak runoff from a fifteen-year return frequency, twenty-minute peak runoff, in accordance with the runoff rates established by Metropolitan St. Louis Sewer District, must be calculated. In shopping centers containing a minimum area of five hundred thousand (500,000) square feet, temporary erosion control measures shall be designed so as to accommodate a five-year frequency, twenty-four-hour storm.

(5) Long-range management of erosion and siltation control facilities must be addressed in the report.

(6) The phasing or staging of the land disturbing activity is to be described, including information on the sequence of land clearing operations, specifying the maximum area and time span the area will be left denuded, the provisions for the removal, protection and stockpiling of soil, the types of major earthmoving and grading activities, dust control measures, and the order of placement of control facility installations.

(7) Explanations for the selection of the erosion and siltation control measures utilized shall be provided.

(8) A schedule is to be provided for inspection and maintenance of the erosion and sediment control facilities to insure maximum effectiveness of the protective measures and to assure that preventive maintenance efforts are to be carried out when needed. This should also include a description of plans for resodding or reseeding of vegetated areas and repair or reconstruction of damaged structural measures, and the method and frequency of removal and disposal of waste materials removed from the control facilities or project area, including the disposal of temporary structural measures after they have served their purpose.

Section 10B-5. Stormwater Management Requirements.

Section 10B-5.1. Stormwater Management Requirements — General Provisions. [Ord. No. 2307 §2, 7-15-2014]

(a) *Findings Of Fact.* It is hereby determined that:

(1) Land development activities and associated increases in site impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, sediment transport and deposition.

(2) This stormwater runoff contributes to increased quantities of waterborne pollutants.

(3) Illicit and non-stormwater discharges to the storm drain system can contribute to a wide variety of pollutants to waterways, and the control of these discharges is necessary to protect public health and safety and water quality.

(4) Improper design and construction of stormwater best management practices (BMPs) can increase the velocity of stormwater runoff, thereby increasing stream bank erosion and sedimentation.

(5) Clearing and grading during construction increases soil erosion and adds to the loss of native vegetation.

(6) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.

(7) Substantial economic losses can result from these adverse impacts on the waters of the County.

(8) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.

(9) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.

(10) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of stormwater runoff from development.

(b) *Intent and Purpose.* The purpose of this Section is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within the City. This Section seeks to meet that purpose through the following objectives:

(1) To protect the safety and welfare of citizens, property owners, and businesses by minimizing the negative impacts of increased stormwater discharges from new land development and redevelopment.

(2) To control the rate, quality and volume of stormwater originating from development and redevelopment sites so that surface water and groundwater are protected and flooding and erosion potential are not increased.

(3) To encourage responsible development to occur in the City.

(4) To control nonpoint source pollution and stream channel erosion.

(5) To maintain the integrity of stream channels and networks for their biological functions, drainage, and natural recharge of groundwater.

(6) To protect the condition of State (and U.S.) waters for all reasonable public uses and ecological functions.

(7) To provide long-term responsibility for and maintenance of stormwater BMPs.

(8) To establish legal authority to carry out all the inspection and monitoring procedures necessary to ensure compliance with this Chapter.

(9) To enable the City to comply with the National Pollutant Discharge Elimination System permit and applicable Federal and State regulations.

(c) *Applicability.* This Chapter shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Subsection 10B-5.1(d). These provisions apply to any new development or redevelopment site within the City that meets one or more of the following criteria:

(1) Land development that disturbs one (1) acre or more.

(2) Redevelopment that creates or adds three thousand (3,000) square feet or more of impervious cover.

(3) Land development in or near an ecologically and/or environmentally sensitive area that disturbs more than three thousand (3,000) square feet.

(4) Land development activities that are smaller than the minimum applicability criteria set forth above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

(d) *Exemptions.* The following activities are exempt from this Chapter:

(1) Projects that are exclusively for agricultural and silvicultural uses. Agricultural or silvicultural roads that are used to access other lands subject to this Chapter are not exempt. Agricultural structures that are used for other uses subject to this Chapter are not exempt.

(2) Maintenance and repair to any stormwater BMP deemed necessary by the City.

(3) Any emergency project that is immediately necessary for the protection of life, property, or natural resources.

(4) Linear construction projects, such as pipeline or utility line installation that does not result in the creation of impervious cover or land disturbance greater than one (1) acre, as determined by the City. Such projects must be designed to minimize the number of stream crossings and width of disturbance, and are subject to City erosion and sediment control practices.

(5) Any part of a land development that was approved by the City prior to the effective date of this Chapter.

Section 10B-5.2. Stormwater Management Requirements — Definitions. [Ord. No. 2307 §2, 7-15-2014]

(a) Unless specifically defined below, words or phrases in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application:

(b) As used in this Chapter, the following terms shall have the meanings indicated:

ACCELERATED EROSION — Erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

APPLICANT — A property owner or agent of a property owner who has filed an application for a stormwater management permit.

BUILDING — Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than one hundred (100) square feet of area.

CHANNEL — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

DEDICATION — The deliberate appropriation of property by its owner for general public use.

DETENTION — The temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DETENTION FACILITY — A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

DEVELOPER — A person who undertakes land disturbance activities.

DRAINAGE EASEMENT — A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

EROSION AND SEDIMENT CONTROL PLAN — A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

FEE IN LIEU — A payment of money in place of meeting all or part of the stormwater performance standards required by this Chapter.

HOTSPOT — An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

HYDROLOGIC SOIL GROUP (HSG) — A Natural Resource Conservation Service classification system in which soils are categorized into four (4) runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

IMPERVIOUS COVER — Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

INDUSTRIAL STORMWATER PERMIT — A National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION — The process of percolating stormwater into the subsoil.

INFILTRATION FACILITY — Any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

JURISDICTIONAL WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DISTURBANCE ACTIVITY — Any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

LANDOWNER — The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT — A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION — Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to,

pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

OFFSET FEE — A monetary compensation paid to a local government for failure to meet pollutant load reduction targets.

OFF-SITE FACILITY — A stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

ON-SITE FACILITY — A stormwater management measure located within the subject property boundary described in the permit application for land development activity.

RECHARGE — The replenishment of underground water reserves.

REDEVELOPMENT — Any construction, alteration or improvement exceeding two thousand (2,000) square feet in areas where existing land use is high-density commercial, industrial, institutional or multifamily residential.

STOP-WORK ORDER — An order issued which requires that all construction activity on a site be stopped.

STORMWATER MANAGEMENT — The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

STORMWATER MANAGEMENT PLAN (SWMP) — The document describing the operator's plan for stormwater management.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan created by constructors to show their plans for sediment and erosion control. Typically these plans are part of an overall design that details procedures to be followed during various phases of construction.

STORMWATER RETROFIT — A stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

STORMWATER RUNOFF — Flow on the surface of the ground, resulting from precipitation.

STORMWATER TREATMENT PRACTICES (STPs) — Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

WATER QUALITY VOLUME (WQV) — The storage needed to capture and treat ninety percent (90%) of the average annual stormwater runoff volume. Numerically (WQV) will vary as a function of long-term rainfall statistical data.

WATERCOURSE — A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Section 10B-5.3. Stormwater Management Requirements — Permit Procedures and Requirements. [Ord. No. 2307 §2, 7-15-2014]

(a) *Permit Required.* No landowner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this Chapter prior to commencing the proposed activity.

(b) *Application Requirements.* The stormwater management plan shall be prepared to meet the requirements of Section 10B-8, the maintenance agreement shall be prepared to meet the requirements of Section 10B-20, and fees shall be those established by the City.

(c) *Application Review Fees.* The fee structure shall be established by the City. All of the monetary contributions shall be credited to a local budgetary category to support local plan review, inspection and program administration, and shall be made prior to the issuance of any building permit for the development.

(d) *Permit Duration.* Permits issued under this section shall be valid from the date of issuance through the date the City notifies the permit holder that all stormwater management practices have passed the final inspection required under the permit conditions.

Section 10B-5.4. Stormwater Management Requirements — Waivers to Stormwater Management Requirements. [Ord. No. 2307 §2, 7-15-2014]

(a) *Waivers For Providing Stormwater Management.*

(1) Every applicant shall provide for stormwater management as required by this Chapter, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the City for approval.

(2) The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one (1) of the following conditions applies:

a. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this Chapter.

b. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City and the implementation of the plan is required by local ordinance.

c. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, designed and adequately sized to provide a level of stormwater control that is equal to or greater than

that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.

d. The City finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.

e. Non-structural practices will be used on the site that reduce a) the generation of stormwater from the site, b) the size and cost of stormwater storage and c) the pollutants generated at the site. These non-structural practices are explained in detail in the current design manual and the amount of credit available for using such practices shall be determined by the City. In instances where one (1) of the conditions above applies, the City may grant a variance from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. To be eligible for a variance, the applicant must demonstrate to the satisfaction of the City that the variance will not result in the following impacts to downstream waterways:

1. Deterioration of existing culverts, bridges, dams and other structures.

2. Degradation of biological functions or habitat.

3. Accelerated streambank or streambed erosion or siltation.

4. Increased threat of flood damage to public health, life, property.

Section 10B-5.5. Stormwater Management Requirements — Mitigation Options. [Ord. No. 2307 §2, 7-15-2014]

(a) Where compliance with minimum requirements for stormwater management is waived by the City, the applicant will satisfy the minimum requirements by meeting one (1) or more of the mitigation measures and/or in amounts determined by the City. Mitigation measures may include, but are not limited to, the following:

(1) The purchase and donation of privately owned lands, or the granting of an easement to be dedicated for preservation and/or reforestation. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat.

(2) The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this Chapter.

(3) Monetary contributions (cash in lieu thereof) to fund stormwater management activities such as research and studies (examples: regional wetland delineation studies, stream monitoring studies for water quality and macroinvertebrates,

stream flow monitoring, threatened and endangered species studies, hydrologic studies and monitoring of stormwater management practices).

(4) In lieu of a monetary contribution, as approved by the City, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the City for the granting of an easement or the dedication of land by the applicant to be used for the construction of an off-site stormwater management facility.

(b) Compliance with any mitigation options contained in Section 10B-5.5 shall be achieved prior to the issuance of any building permits, City execution of plats or other documents to be recorded with the St. Louis County Recorder of Deeds or City approval of any other instruments necessary for the sale, lease or development of the subject properties.

Section 10B-6. General Performance Criteria for Stormwater Management. [Ord. No. 2307 §2, 7-15-2014]

Unless judged by the City to be exempt or granted a waiver, the following performance criteria shall be addressed for stormwater management at all sites:

(a) All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater as indicated in the City of Eureka Design Guide. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(c) Certain industrial sites are required to prepare and implement a stormwater pollution prevention plan (SWPPP), and shall file a notice of intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES) general permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.

(d) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots," may require the use of specific structural STPs and pollution prevention practices.

(e) Prior to design, applicants are required to consult with the City to determine if they are subject to additional stormwater design requirements.

(f) The calculations for determining peak flows as found in the City of Eureka Design Guide shall be used for sizing all stormwater management practices.

Section 10B-7. Basic Stormwater Management Design Criteria. [Ord. No. 2307 §2, 7-15-2014]

(a) *Minimum Control Requirements.* All stormwater management practices will be designed so that the specific storm frequency storage volumes (e.g., recharge, water quality, channel protection, ten-year, one-hundred-year) as identified in the City of Eureka Design Guide are met, unless the City grants the applicant a waiver or the applicant is exempt from such requirements. In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing and rate of runoff.

(b) *Site Design Feasibility.*

(1) Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:

a. Topography.

b. Maximum drainage area.

c. Depth to water table.

d. Soils.

e. Slopes.

f. Terrain.

g. Head.

h. Location in relation to environmentally sensitive features or ultra-urban areas.

(2) Applicants shall consult the City of Eureka Design Guide for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.

(c) *Conveyance Issues.*

(1) All stormwater management practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:

a. Maximizing of flowpaths from inflow points to outflow points.

b. Protection of inlet and outfall structures.

c. Elimination of erosive flow velocities.

d. Providing of underdrain systems, where applicable.

(2) The City of Eureka Design Guide provides detailed guidance on the requirements for conveyance for each of the approved stormwater management practices.

(d) *Pretreatment Requirements.* Every stormwater treatment practice shall have an acceptable form of water quality pretreatment, in accordance with the pretreatment requirements found in the current stormwater design manual. Certain stormwater treatment practices, as specified in the City of Eureka Design Guide, are prohibited even with pretreatment in the following circumstances:

(1) Stormwater is generated from highly contaminated source areas known as "hotspots."

(2) Stormwater is carried in a conveyance system that also carries contaminated, non-stormwater discharges.

(3) Stormwater is being managed in a designated groundwater recharge area.

(4) Certain geologic conditions exist (e.g., Karst) that prohibit the proper pretreatment of stormwater.

(e) *Treatment/Geometry Conditions.* All stormwater management practices shall be designed to capture and treat stormwater runoff according to the specifications outlined in the City of Eureka Design Guide. These specifications will designate the water quantity and quality treatment criteria that apply to an approved stormwater management practice.

(f) *Landscaping Plans Required.* All stormwater management practices must have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. This plan must be prepared by a registered landscape architect or other qualified professional as approved by the City.

(g) *Maintenance Agreements.* All stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.

(h) *Non-Structural Stormwater Practices.* The use of non-structural stormwater treatment practices is encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of non-structural practices that reduce the generation of stormwater from the site. These non-structural practices are explained in detail in the current design manual, and applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.

Section 10B-8. Requirements for Stormwater Management Plan Approval. [Ord. No. 2307 §2, 7-15-2014]

(a) *Stormwater Management Plan Required For All Developments.* No application for development will be approved unless it includes a stormwater management plan (SWMP) detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be prepared by an individual approved by the City and must indicate whether stormwater will be managed on site or off site and, if on site, the general location and type of practices. The stormwater management plan(s) shall be referred for comment to all other interested agencies, and any comments must be addressed in a final SWMP. This final plan must be signed by a professional engineer (PE) licensed in Missouri, who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the stormwater design manual. No building, grading, or sediment control permit shall be issued until a satisfactory final stormwater management plan, or a waiver thereof, shall have undergone a review and been approved by the City after determining that the plan or waiver is consistent with the requirements of this Chapter.

(b) *Stormwater Management Concept Plan Requirements.* A stormwater management concept plan shall be required with all permit applications and will include sufficient information (e.g., maps, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The intent of this conceptual planning process is to determine the type of stormwater management measures necessary for the proposed project, and to ensure adequate planning for management of stormwater runoff from future development. To accomplish this goal the following information shall be included in the concept plan:

(1) A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading; A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(2) Sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this Chapter and the specifications of the City of Eureka Design Guide.

(3) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

(4) A written description of the required maintenance burden for any proposed stormwater management facility.

(5) The City may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential. For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the stormwater concept plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this Chapter to the maximum extent practicable.

(c) *Final Stormwater Management Plan Requirements.* After review of the stormwater management concept plan, and modifications to that plan as deemed necessary by the City, a final stormwater management plan must be submitted for approval.

(d) *Performance Bond/Security.* The City may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved under the permit, plus fifty percent (50%). The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The installation performance security shall be released in full only upon submission of as-built plans and written certification by a Missouri registered professional engineer that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this Chapter. The City will make a final inspection of the stormwater practice to ensure that it is in compliance with the approved plan and the provisions of this Chapter. Provisions for a partial pro rata release of the performance security based on the completion of various development stages can be done at the discretion of the City.

Section 10B-9. Construction Inspection. [Ord. No. 2307 §2, 7-15-2014]

(a) *Notice of Construction Commencement.*

(1) The applicant must notify the City in advance before the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by City staff, City-approved individuals or by a Missouri professional engineer or his or her designee who has been approved by the City. All inspections shall be documented and written reports prepared that contain the following information:

a. The date and location of the inspection.

b. Whether construction is in compliance with the approved stormwater management plan.

c. Variations from the approved construction specifications.

d. Any violations that exist.

(2) If any violations are found, the property owner shall be notified in writing of the nature of the violations and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the City.

(b) *As-Built Plans.* All applicants are required to submit as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. A final inspection by the City is required before the release of any performance securities can occur.

(c) *Landscaping and Stabilization Requirements.* Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within ten (10) days from the substantial completion of such clearing and construction. Revegetation criteria is contained in the City of Eureka Design Guide.

Section 10B-10. Enforcement and Penalties.

(a) *Violations.* Any development activity that is commenced or is conducted contrary to this Chapter may be restrained by injunction or otherwise abated in a manner provided by law.

(b) *Notice Of Violation.* When the City determines that an activity is not being carried out in accordance with the requirements of this Chapter, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

(1) Name and address of the owner or applicant.

(2) Address when available or a description of the building, structure or land upon which the violation is occurring.

(3) Statement specifying the nature of the violation.

(4) Description of the remedial measures necessary to bring the development activity into compliance with this Chapter and a time schedule for the completion of such remedial action.

(5) Statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.

(6) Statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of the notice of violation.

(c) *Stop-Work Orders.* Persons receiving a notice of violation will be required to halt all construction activities. This stop-work order will be in effect until the City

confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Chapter.

(d) *Civil And Criminal Penalties.* In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Chapter shall be punished by a fine of not less than seven hundred fifty dollars ($750.00) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

(e) *Restoration Of Lands.* Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

(f) *Holds On Occupation Permits.* Occupation permits will not be granted until corrections to all stormwater practices have been made and accepted by the City.

Section 10B-11. Stormwater Illicit Discharge and Connection.

Section 10B-11.1. Stormwater Illicit Discharge and Connection — Purpose and Intent. [Ord. No. 2307 §2, 7-15-2014]

The purpose of this Section is to provide for the health, safety, and general welfare of the citizens of the City through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by Federal and State law. This Section establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Section are:

(a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.

(b) To prohibit illicit connections and discharges to the municipal separate storm sewer system.

(c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter.

Section 10B-11.2. Stormwater Illicit Discharge and Connection — Definitions. [Ord. No. 2307 §2, 7-15-2014]

For the purposes of this Section, the following definitions shall apply:

AUTHORIZED ENFORCEMENT AGENCY — Employees or designees of the City who are designated to enforce this Chapter.

BEST MANAGEMENT PRACTICES (BMPs) — Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY — Activities subject to NPDES construction permits. Currently these include construction projects resulting in land disturbance of five (5) acres or more. Beginning in March 2003, NPDES Stormwater Phase II permits will be required for construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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-stormwater discharge to the storm drain system, except as exempted in this Chapter.

ILLICIT CONNECTIONS — 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-stormwater discharge, including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or 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 122.26 (b)(14).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by EPA [or by a State under authority delegated pursuant to 33 U.S.C. § 1342(b)] that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORMWATER DISCHARGE — Any discharge to the storm drain system that is not composed entirely of stormwater.

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 which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES — Any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM — Publicly owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

STORMWATER — Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN — A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

WASTEWATER — Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Section 10B-11.3. Stormwater Illicit Discharge and Connection — Discharge Prohibitions. [Ord. No. 2307 §2, 7-15-2014]

(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 stormwater. 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 groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air-conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or

wetland flows, swimming pools (if dechlorinated: typically less than one part per million chlorine), firefighting 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-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) *Prohibition Of Illicit Connections.*

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(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.

Section 10B-11.4. Stormwater Illicit Discharge and Connection — Suspension of MS4 Access. [Ord. No. 2307 §2, 7-15-2014]

(a) *Suspension Due To Illicit Discharges In Emergency Situations.* The City may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(b) *Suspension Due To The Detection of Illicit Discharge.* Any person discharging to the MS4 in violation of this Chapter may have his or her MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing. A person commits an offense if the person reinstates

MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

Section 10B-11.5. Stormwater Illicit Discharge and Connection — Industrial or Construction Activity Discharges. [Ord. No. 2307 §2, 7-15-2014]

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City prior to the allowing of discharges to the MS4.

Section 10B-11.6. Stormwater Illicit Discharge and Connection — Monitoring of Discharges. [Ord. No. 2307 §2, 7-15-2014]

(a) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(b) *Access to Facilities.*

(1) The City shall be permitted to enter and inspect facilities subject to regulation under this Chapter as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by State and federal law.

(3) The City shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The City has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the City access to a permitted facility is a violation of a stormwater discharge permit and of this Chapter. A person who is the operator of a facility with a NPDES permit to discharge stormwater

associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Chapter.

(7) If the City has been refused access to any part of the premises from which stormwater is discharged, and it is able to demonstrate probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

Section 10B-12. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by Use of Best Management Practices. [Ord. No. 2307 §2, 7-15-2014]

The City will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at his or her 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 non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this Section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Section 10B-13. Watercourse Protection. [Ord. No. 2307 §2, 7-15-2014]

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Section 10B-14. Notification of Spills. [Ord. No. 2307 §2, 7-15-2014]

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain

system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

Section 10B-15. Enforcement. [Ord. No. 2307 §2, 7-15-2014]

(a) *Notice Of Violation.*

(1) Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

a. The performance of monitoring, analyses, and reporting;

b. The elimination of illicit connections or discharges;

c. That violating discharges, practices, or operations shall cease and desist;

d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and

e. Payment of a fine to cover administrative and remediation costs; and

f. The implementation of source control or treatment BMPs.

(2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(b) *Appeal Of Notice Of Violation.* Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within fifteen (15) days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the City or the City's designee shall be final.

(c) *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 fifteen (15) days of the decision of the municipal authority

upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(d) *Cost Of Abatement Of The Violation.* Within fifteen (15) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. An interest rate of five percent (5%) per annum shall be assessed on the balance beginning on the 30th day following discovery of the violation.

Section 10B-16. Injunctive Relief. [Ord. No. 2307 §2, 7-15-2014]

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 City 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.

Section 10B-17. Compensatory Action. [Ord. No. 2307 §2, 7-15-2014]

In lieu of enforcement proceedings, penalties, and remedies authorized by this Chapter, the City may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Section 10B-18. Violations Deemed Public Nuisance. [Ord. No. 2307 §2, 7-15-2014]

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.

Section 10B-19. Criminal Prosecution. [Ord. No. 2307 §2, 7-15-2014]

Any person that has violated or continues to violate this Chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of up to seven hundred fifty dollars ($750.00) per violation per day and/or imprisonment for a period of time not to exceed six (6) months. The City may recover all

attorney's fees, court costs and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses.

Section 10B-19.1. Criminal Prosecution — Remedies Not Exclusive.

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable Federal, State or City law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Section 10B-20. Stormwater Operation and Maintenance.

Section 10B-20.1. Stormwater Operation and Maintenance — Definitions. [Ord. No. 2307 §2, 7-15-2014]

As used in this Section, the following terms shall have the meanings indicated:

BEST MANAGEMENT PRACTICE (BMP) — Structural device, measure, facility, or activity that helps to achieve stormwater management control objectives at a designated site.

PLAN — A document approved at the site design phase that outlines the measures and practices used to control stormwater runoff at a site.

Section 10B-20.2. Stormwater Operation and Maintenance — Design. [Ord. No. 2307 §2, 7-15-2014]

(a) All stormwater BMPs shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design guidelines are outlined in the most recent version of the City of Eureka Design Guide.

(b) Stormwater easements and covenants shall be provided by the property owner for access for facility inspections and maintenance. Easements and covenants shall be recorded with the City prior to the issuance of a permit.

(c) Final design shall be approved by the City.

Section 10B-20.3. Stormwater Operation and Maintenance — Routine Maintenance. [Ord. No. 2307 §2, 7-15-2014]

(a) All stormwater BMPs shall be maintained according to the measures outlined in the most recent version of the City of Eureka Design Guide, and as approved in the permit.

(b) The person(s) or organization(s) responsible for maintenance shall be designated in the plan. Options include:

    (1) Property owner.

    (2) Homeowner's association, provided that provisions for financing necessary maintenance are included in deed restrictions or other contractual agreements.

(3) The City, solely at the discretion of the City.

(c) Maintenance agreements shall specify responsibilities for financing maintenance.

Section 10B-20.4. Stormwater Operation and Maintenance — Nonroutine Maintenance. [Ord. No. 2307 §2, 7-15-2014]

Nonroutine maintenance includes maintenance activities that are expensive but infrequent, such as pond dredging or major repairs to stormwater structures.

(a) Nonroutine maintenance shall be performed on an as-needed basis based on information gathered during regular inspections.

(b) If nonroutine maintenance activities are not completed in a timely manner or as specified in the approved plan, the City may complete the necessary maintenance at the owner's/operator's expense.

Section 10B-20.5. Stormwater Operation and Maintenance — Inspections. [Ord. No. 2307 §2, 7-15-2014]

(a) The person(s) or organization(s) responsible for maintenance shall inspect stormwater BMPs on a regular basis as outlined in the plan.

(b) Authorized representatives of the City may enter at reasonable times to conduct on-site inspections or routine maintenance.

(c) For BMPs maintained by the property owner or homeowner's association, inspection and maintenance reports shall be filed with the City as provided for in the plan.

(d) Authorized representatives of the City may conduct inspections to confirm the information in the reports filed under Subsection (c) above.

Section 10B-20.6. Stormwater Operation and Maintenance — Enforcement and Penalties. [Ord. No. 2307 §2, 7-15-2014]

(a) If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have fifteen (15) days to effect maintenance and repair of the facility in an approved manner. After proper notice, the City may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the City.

(b) *Violations.* Any development activity that is commenced or is conducted contrary to this Chapter may be restrained by injunction or otherwise abated in a manner provided by law.

(c) *Notice Of Violation.* When the City determines that an activity is not being carried out in accordance with the requirements of this Chapter, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

(1) Name and address of the owner or applicant.

(2) Address when available or a description of the building, structure or land upon which the violation is occurring.

(3) Statement specifying the nature of the violation.

(4) Description of the remedial measures necessary to bring the development activity into compliance with this Chapter and a time schedule for the completion of such remedial action.

(5) Statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.

(6) Statement that the determination of violation may be appealed to the City by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

(d) *Stop-Work Orders.* Persons receiving a notice of violation will be required to halt all construction activities. This stop-work order will be in effect until the City confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Chapter.

(e) *Civil And Criminal Penalties*. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this Chapter shall be punished by a fine of not less than seven hundred fifty dollars ($750.00) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

(f) *Restoration Of Lands*. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

(g) *Holds On Occupation Permits.* Occupation permits will not be granted until corrections to all stormwater practices have been made and accepted by the City.

Section 10B-21. Appeals and Variances. [Ord. No. 2307 §2, 7-15-2014]

(a) Any appeals of administrative decisions or request for a variance from strict compliance with the requirements of this Section shall be heard by the Board of Adjustment, in accordance with the City of Eureka Zoning Ordinance Chapter 23, Article XIV.

(b) The Board of Adjustment shall not grant a variance from the requirements of the Land Disturbance and Stormwater Management Code unless it finds that:

(1) The interpretation, ruling or order is erroneous or constitutes an erroneous application of the particular provisions of the Land Preservation Act or other related laws or ordinances, or is otherwise contrary to law; or

(2) A variance is necessary and feasible whereby the Board shall make the following findings:

a. Good and sufficient cause based on an unreasonable burden or hardship has been proven;

b. The granting of the variance would not result in any increase in quantity or velocity of flow, degradation of water quality, or negative impacts upon adjoining or downstream properties, nor upon the stormwater system;

c. The degree of variance is the minimum necessary to afford relief from the unreasonable burden or hardship imposed by the applicable provisions.

d. The variance may be granted without defeating the public health, safety and welfare purposes and intent of the applicable provisions.

Section 10B-22. Land Disturbance Escrow Requirements. [Ord. No. 2307 §2, 7-15-2014]

Land disturbance escrows shall be established at a minimum of one hundred fifty percent (150%) of the amounts deemed necessary for the installation, operation and removal of siltation control devices, installation, operation and removal of sedimentation control measures and reestablishment of adequate ground cover and related topographical conditions. The basis for such necessary escrow components shall be the current unit prices established by St. Louis County Department of Planning.

Section 10B-23. Areas Where Pre-Existing Ponds or Lakes are Located in Same Watershed Procedure. [Ord. No. 2307 §2, 7-15-2014]

In cases where there are pre-existing ponds or lakes located in the same watershed which, in the opinion of the City, could be impacted by stormwater flow from a particular development for which a land disturbance permit is granted, appropriate measures shall be taken by a City-engaged, developer-paid professional to establish a baseline depth and at a minimum a final depth at the completion of the project. If the City determines that the body of water has been negatively impacted, the developer shall be required to take any necessary corrective measures as approved by the City or a City-engaged, developer-paid professional.

Chapter 11

HEALTH AND SANITATION

Section 11-1. Building Inspector to Serve as City Health Commissioner. [Ord. No. 858, §1]

The Building Inspector of the City of Eureka shall also serve as Health Commissioner for the City and shall exercise all powers and duties pertaining thereto according to law.

Section 11-2. Contract With County for Health Services. [Ord. No. 208, §2 to 4]

The Mayor is authorized to enter into on behalf of the City a contract with the county, whereby the county shall provide the services of trained health department personnel to carry out a public health and sanitation program within the City, including dogcatching and rabies control services, general sanitation and food inspection and such other services and activities, except mosquito control, as the county health commissioner may at any time, and from time to time, determine to be necessary and within the facilities and capabilities of the county's department of public health; all terms and provisions of the contract shall be such as the mayor approves.

The City shall provide all necessary space and office equipment required at no cost to the county. The county is to furnish all inspection and testing equipment, supplies and laboratory facilities for which they are to be paid one dollar per annum.

Agreement executed shall continue in force until December 31, 1966, and from year to year thereafter unless terminated by either party at the end of any calendar year by written notice at least thirty days prior thereto.

Section 11-3. Nuisances Affecting Health. [Ord. No. 154, §6; Ord. No. 919, §2-3]

The following are declared to be nuisances affecting health and are hereby prohibited:

(1) All decayed or unwholesome food offered for sale to the public.

(2) All diseased animals running at large.

(3) All pools of stagnant water.

(4) Carcasses of dead animals not buried or destroyed within twenty-four hours after death.

(5) Accumulations of manure, rubbish, garbage, refuse and human and industrial or noxious or offensive waste, except the normal storage on a farm of manure for agricultural purposes.

(6) Privy vaults or garbage cans which are not fly-tight.

(7) The pollution of any well, cistern, spring, underground water stream, lake, canal or body of water by sewage or industrial wastes, or other substance harmful to human beings.

(8) Dense smoke, noxious fumes, gas and soot or cinders, in unreasonable quantities, or the presence of any gas, vapor, fume, smoke, dust or any other toxic substance on, in or emitted from the equipment of any premises in quantities sufficient to be toxic, harmful or injurious to the health of any employee or to any premises occupant, or to any other persons.

(9) Common drinking cups, roller towels, combs, brushes or eating utensils in public or semipublic places not properly sanitized after use.

(10) Any vehicle used for septic tank cleaning which does not meet the requirements of general sanitary practices.

(11) Any vehicle used for garbage and rubbish disposal which is not licensed as such by the city.

(12) All infestations of flies, fleas, roaches, lice, ticks, rats, mice, fly maggots, mosquito larvae and hookworm larvae.

(13) The keeping of animals or fowl in close proximity to residences, schools, hospitals, public or semipublic buildings, playgrounds, parks and other public places, except pet cats and dogs, animals in public or licensed zoos or animals in laboratories or farm animals; except, that no swine shall be kept within three hundred feet from any residence nor in a concentration for more than one animal per acre of vacant land.

(14) Unlicensed dumps.

(15) Any and all grading which disturbs the surface of the ground and which is not properly reseated and thereby causes erosion or unnatural drainage of surface water in private or public property.

(16) The disposing of any waste or sewage not in compliance with this Code or the failure in any way to comply with the requirements of this Code.

(17) Abandoned or derelict vehicles as defined in Section 13-146.

(18) All other acts, practices, conduct, business, occupations, callings, trades, uses of property, and all other things detrimental or certain to be detrimental to the health of the inhabitants of the City.

Section 11-3.5. Enforcement Procedures for the Removal of Nuisances Affecting Health as Prohibited in Section 11-3. [Ord. No. 913, §1]

(a) Whenever any nuisance constituting a violation of Section 11-3., is allowed to exist or remain on any part of any lot or ground within the City, the owner of the lot or ground or, in case of joint tenancy, tenancy by the entireties of tenancy in common, each owner thereof, shall be liable for the cost of the removal of such nuisance.

(b) Notice, hearing and special tax bill.

(1) The Building Commissioner of the City shall give notice that in not less than ten (10) days and not more than fifteen (15) days a hearing will be held to determine if a public nuisance exists. This notice shall be given either personally or by United States Mail to the owner or owners or his agents, or by posting such notice on the premises.

(2) The Building Commissioner of the City shall conduct a hearing not less than ten (10) days and not more than fifteen (15) days after this notice. Thereupon, the Building Commissioner may declare the existence of a nuisance and order said nuisance removed within not less than five (5) days and not more than thirty (30) days.

(3) If the nuisance is not removed as required by the Building Commissioner, the Building Commissioner shall have such nuisance removed. The Building Commissioner shall certify the cost of the removal to the City Clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the Collector with other taxes against the property.

(4) Each special tax bill shall be issued by the City Clerk and delivered to the Collector on or before the first day of June of each year. Such tax bills, if not paid when due, shall bear interest at the rate of eight percent (8%) per annum.

(5) The tax bill from the date of its issuance shall be on a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity.

Section 11-4. Sanitation Code. [Ord. No. 367, §1]

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 adulterated or misbranded food or drink; and the enforcement of this section shall be regulated in accordance with the unabridged form of the 1962 Edition of the "United States Public Health Service Food Service Sanitation Ordinance and Code", three certified copies of which shall be on file in the office of the city clerk; provided, that the words "municipality of _____" in such unabridged form shall be understood to refer to municipality of Eureka, Missouri. Provided further, that in such ordinance the parentheses enclosing words referring to grading shall be understood to be deleted.

Chapter 12

LICENSES

ARTICLE I
In General

Section 12-1. Peddlers. [Ord. No. 616 §1; Ord. No. 1598 §1, 3-5-2002; Ord. No. 1828 §§1-2, 4-19-2005; Ord. No. 2135 §1, 9-7-2010; Ord. No. 2232 §1, 7-17-2012]

(a) A peddler shall include any person who shall deal in the sale of goods, wares, merchandise or services by outcry or by going about from place to place, house to house, door to door, on foot or by conveyance, or by stopping or standing in any street, alley or place to offer or sell such goods, wares, merchandise or services.

(b) It shall be unlawful for any person to engage in the business of a peddler within the City, except as follows:

(1) Any farmer or producer of agricultural and horticultural products for the sale of produce raised by said farmer when sold from a vehicle or by the employees of such producer.

(2) A recognized Eureka-based civic, fraternal, charitable and religious organization.

(3) *Mobile ice cream sales.* One may engage in the mobile sales of ice cream and related frozen confection products from a vehicle provided that said vehicle remains on roadways and safely stops along such roadways only for the length of time required to engage in sales transactions.

(c) Those individuals or entities authorized to engage in peddler activity may operate a temporary sign of up to thirty-two (32) square feet in size, subject to temporary signage provisions contained in Chapter 19A of the Municipal Code.

Section 12-1.1. Operation of Pawnshops and Check-Cashing Establishments — Prohibited. [Ord. No. 1483 §§1-2, 10-3-2000]

(a) The Municipal Code of the City of Eureka is hereby amended to prohibit the operation of pawnshops and check-cashing establishments within the City of Eureka.

(b) Any pawnshops and check-cashing establishments legally operating in the City as of the effective date of this Section shall be legal non-conforming uses and subject to regulations applicable to same.

ARTICLE II

Utilities

Division 1
Electrical

Section 12-2. License Tax Levied. [Ord. No. 761, §1.; Ord. No. 776 §1]

Every person engaged in the business of supplying electricity or service connected therewith for compensation for any purpose in the city, and every manufacturing corporation now or hereafter engaged in the manufacture of electricity for compensation for any purpose in the city, shall pay to the city as a license tax, a sum equal to five percent of the gross receipts received from such business within the city.

Section 12-3. Filing and Investigation of Statements of Gross Receipts. [Ord. No. 35, §3]

It is hereby made the duty of every person engaged in any business described in this division to file with the city clerk, on January 15, 1956, a sworn statement of the gross receipts of such person received within the city from July 15, 1955, to January 15, 1956, and thereafter a similar statement on July 15 and January 15 of each year of such receipts for the six calendar months preceding the filing of such statement. The city clerk or his duly authorized deputy is hereby authorized to investigate the correctness and accuracy of such statement and for that purpose shall have access at all reasonable times during business hours to examine the books, documents, papers and records of any person making such statement in order to ascertain the accuracy thereof.

Section 12-4. Payment of Tax. [Ord. No. 35, §4]

Every person engaged in any of the businesses described in this division shall pay to the city collector on January 25, 1956, and on July 25, 1956, and on the 25th day of January and July of each year thereafter an amount equal to five percent of the person's gross receipts received from such business within the city for the preceding six calendar months.

Section 12-5. Effect of Division on Other Taxes. [Ord. No. 35, §5]

The tax required to be paid in this division shall be in lieu of any other occupation tax required of any person engaged in any of the businesses described in this division, but nothing herein contained shall be so construed as to exempt any such person from the payment to the city of the tax which the city levies upon the real and personal property belonging to any such person, nor the tax required of merchants or manufacturers for the sale of anything other than electricity, nor shall the tax herein required exempt any such person from the payment of any other tax which may be lawfully required other than any occupation tax on any of the businesses described in this division.

Division 2
Telephone or Telegraph Service [1]

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[1]. **Editor's Note — Ord. no. 1907 was passed in compliance with HB209 of the 2006 Missouri Legislative session. Provisions contained in HB209 were subsequently deemed unconstitutional by the Missouri Supreme Court on August 8, 2006 in City of**

Section 12-6. License Tax Levied. [Ord. No. 38, §1; Ord. No. 338, §§1-2]

Every person engaged in the business of supplying or furnishing exchange telephone service or telegraph service in the city shall pay to the city as a license or occupational tax, five percent of the gross receipts derived from such business within the city.

The word "person" as used in this section and in sections 12-7, 12-8, 12-9 and 12-10 shall be construed to include every person, firm, company or corporation now or hereafter engaged in the business of furnishing exchange telephone service in the city.

The term "exchange telephone service" shall be construed to include all of the following:

(a) Monthly charges:

(1) For flat or measured rate exchange service.

(2) For station equipment used in exchange service (including data sets, teletypewriters and other equipment used in data-phone service.)

(3) For tie line terminating equipment.

(4) For mileage in connection with exchange services within the local service area.

(5) For enterprise service.

(6) For nonpublished and nonlisted services.

(7) For three hundred series key systems.

(8) For connection of customer provided data or voice transmitting and receiving equipment.

(9) For connecting arrangements.

(10) For supplemental items of service, e.g., touch-tone trimline, princess, bell chimes, etc.

(11) For subscribers' station monthly recurring revenues not provided for in preceding.

(b) Message charges, including revenues from local telephone messages charged for on a measured rate basis.

(c) Nonrecurring charges, including:

(1) Service connection charges, moves and changes.

(2) Installation and move charges for auxiliary equipment associated with exchange service.

(3) Charges for termination or restoration of service.

Springfield, Appellant V Sprint Spectrum, L.P., Respondent Case No. SC87238. Consequently, this ordinance was not codified. Editor's Note — Ord. No. 1129 §1 adopted on 10-4-1994 repealed §12-29 which originally derived from Ord. No. 600 §1.

(4) One-time charges for supplemental items of equipment, e.g., color, princess.

(5) Maintenance of service charge.

(6) Initial installation charges, including connecting arrangements.

(d) Public telephone service including all exchange service revenue from public telephone service.

(e) Local private line services, including interconnection of customer-provided equipment to the private line network when the private line channels involved are with the local service area.

Section 12-7. Filing Statement of Gross Receipts; Exemption of Receipts From Governmental Consumers. [Ord. No. 38, §2; Ord. No. 41]

Every person engaged in the business set forth in this division is hereby required to file with the city clerk on or before March 1, 1956, a sworn statement showing the grossreceipts derived from the transaction of such business in the city from September 6, 1955 through December 31, 1955, and a similar report on or before September 1, 1956, for the preceding six months period ending June 30, 1956, on or before March 1, 1957, for the preceding six months period ending December 31, 1956, and a similar report on March 1 and September 1 of each successive year thereafter, and at the same time pay to the collector of the city the tax levied by this division; provided, that it shall not be required to include in such statement nor calculate the tax upon any receipts derived from any such services furnished the city or any other governmental unit in the city.

Section 12-8. Credit for Tax to be Given on Payments Made to City Under Contract. [Ord. No. 38, §3]

Any person engaged in the business set forth in this division, making any payment to the city under any ordinance or contract pursuant thereto heretofore enacted shall receive credit for such payments on the tax set forth in this division.

Section 12-9. Investigation of Accuracy of Statement of Gross Receipts. [Ord. No. 38, §4]

The city collector or his deputies shall investigate the correctness and accuracy of the statement of gross receipts filed under this division and for that purpose shall have access at all reasonable business hours to the books, documents, papers and records of any person making such return in order to ascertain the accuracy thereof.

Section 12-10. Division Not to Affect Property Taxes. [Ord. No. 38, §5]

Nothing contained in this division shall be so construed as to exempt any person to which this division is applicable from the payment to the city of the tax which the city levies upon the real or personal property belonging to any such person.

Division 3

Gas

Subdivision I Laclede Gas Company

Section 12-11. License Tax Levied. [Ord. No. 172, §2]

The Laclede Gas Company shall pay to the city, at least once every year, a sum equal to five percent of the gross receipts from its operation in the city as and for a license tax.

Subdivision II Underground Gas Distribution

Section 12-12. Definitions. [Ord. No. 274, §1]

For the purposes of this subdivision, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BUSINESS OF SUPPLYING GAS OR GAS SERVICE — The supplying of gas or gas service through an underground pipe distribution system; nothing in this subdivision shall be construed as imposing a tax on persons commonly called bottled gas dealers who supply propane and butane gas in steel tanks to customers, such bottled gas dealers being specifically exempted from the tax levied by this subdivision; except, that section 12-11 passed and approved on November 17, 1964, and as amended, shall remain in full force and effect.

GROSS RECEIPTS — The aggregate amount of all sales and charges from the business of supplying gas or gas service made by a person in the city during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.

PERSONS — Any individual, firm, copartnership, association, corporation, trust, trustee, receiver, syndicate or any other group or combination acting as a unit, in the plural as well as the singular number.

Section 12-13. License Tax Levied. [Ord. No. 274 §2]

Every person now or hereafter engaged in the business of supplying gas or gas service for compensation for any purpose in the City shall pay to the City, as a license tax, a sum equal to five percent (5%) of the gross receipts received from such business within the City.

Section 12-14. Statement of Gross Receipts to be Filed. [Ord. No. 274 §3]

It is hereby made the duty of every person engaged in any business described in the foregoing Section hereof, to file with the City Clerk on the last day of January, 1970, a sworn statement of the gross receipts of such person received within the City from the fourth (4th) day of November, 1969 to the thirty-first (31st) day of December, 1969, and thereafter a similar statement on the last day of July and the last day of January of each year of such receipts for the six (6) calendar months preceding the filing of such statement. The City Clerk or his duly authorized deputy shall be and is hereby authorized to investigate the correctness and accuracy of such statement and for that purpose shall have access at all reasonable times during business hours to examine the books,

documents, papers, and records of any person making such statement in order to ascertain the accuracy thereof.

Section 12-15. Payment of License Tax. [Ord. No. 274 §4]

Every person now or hereafter engaged in any of the businesses described in Section 12-13 shall, at the same time as making the sworn statement required in Section 12-14, pay to the City Collector of the City an amount equal to five percent (5%) of the gross receipts derived from such business in the City for the preceding six (6) calendar months.

Section 12-16. Effect of License Tax on Other Taxes Levied by City. [Ord. No. 274 §5]

The tax required by this Subdivision to be paid shall be in lieu of any other occupation tax required of any person engaged in any of the businesses described in Section 12-13; but nothing contained in this Subdivision shall be so construed as to exempt any such person from the payment to the City of the tax which the City levies upon the real and personal property belonging to any such person, nor the tax required of merchants or manufacturers for the sale of anything other than gas, nor shall the tax required by this Subdivision exempt any such person from the payment of any other tax which may be lawfully required other than any occupation tax on any of the businesses described in Section 12-13.

Section 12-17. Penalty for Violation of Subdivision; Continuing Violations. [Ord. No. 274 §6]

Any person engaged in any of the businesses described in Section 12-13 who shall violate any of the provisions of this Subdivision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), and each day's violation of this Subdivision shall constitute a separate offense.

ARTICLE III
Business License Taxes

Section 12-18. Definitions. [Ord. No. 299, §2.; Ord. No. 1292 §1, 6-17-1997; Ord. No. 1454 §1, 5-16-2000]

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

AMUSEMENT PARK GROSS RECEIPTS — The aggregate amount of all sales, operating revenues determined in accordance with generally accepted accounting principles, fees, commissions, rental and leasing fees and shall include the receipt of cash (or accrual basis), credits and property of any kind or nature without any deductions therefrom on account of the cost of any items sold, the cost of any materials used, or of any labor, service costs, interest paid or payable, or any losses or any other expenses whatsoever; provided, that the following shall be excluded from any computations of gross receipts if the books of accounts segregate the amount so as to reflect such exclusions:

(1) Receipt of taxes levied by State and Federal Governments collected by the seller;

(2) Such part of the sales price of goods, wares, merchandise or personal property returned by the purchaser as is refunded either in cash or by credit;

(3) Receipts of refundable deposits, except that portion of refundable deposits forfeited and taken in the gross receipts of the seller;

(4) Receipts for the parking of vehicles;

(5) Receipts from organizations exempt from sales tax pursuant to Chapter 144, RSMo.;

(6) Receipts arising out of other than local sponsorships; and

(7) Receipts arising out of barter agreements.

MANUFACTURER — Every person who shall manufacture, hold or purchase personal property for the purpose of adding to the value thereof by any process of manufacturing or refining, or by the combination of different materials or shall purchase and sell manufactured articles such as he manufactures or uses in manufacture, except as provided in this Article.

MERCHANT — Every person who shall deal in the selling of goods, wares and merchandise at any store, stand or place within the City, including those who engage in the furnishing for profit of any services in connection with the sale of goods, wares and merchandise at any store, stand or place within the City, except as otherwise provided in this Article. Every person doing business in the City who shall, as a practice in the conduct of such business, make or cause to be made any wholesale or retail sales of goods, wares and merchandise to any person shall be deemed to be a merchant, whether such sales be accommodation sales, whether they be made from a stock of goods on hand or by ordering goods from another source, and whether the subject of the sales be similar to or different from the types of goods, if any, regularly sold by such seller. Construction trade contractors and subcontractors which do not operate from a physical location within the Eureka City limits are exempt from business license requirements.

PERSON — One (1) or more persons, individuals, copartnerships, associations, joint stock companies, business trusts or corporations.

Section 12-19. Required. [Ord. No. 299, §1]

No person, firm copartnership, association or corporation shall engage in, or own, manage, operate or control, any of the various businesses, employments, occupations, agencies, amusements or exhibitions; or own, manage, operate or control any public buildings, public halls or any other of the matters and things hereinafter listed unless such person, firm, copartnership, association or corporation shall first apply to the City Clerk for a license which shall be issued to the applicant by the City Clerk upon the payment of the license fee established herein, provided the applicant has complied with all ordinances governing the issuance of the license to do or engage in the business, occupation, matter or thing for which the license is requested.

Section 12-19.1. Effect of Defalcation in Payment of Sales Taxes; Bonds. [Ord. No. 730, §1]

(a) Any defalcation in the payment of sales tax to the state and/or the city shall constitute cause for the denial of the renewal of any liquor and/or merchant's license previously issued by the city.

(b) By making application to the city for a liquor or merchant's license, the license applicant consents that, in the event of defalcation of payment of sales tax to the state and/or city, the licensee shall do one of the following three things:

(1) Post a bond with the city clerk from a licensed bonding company, pending resolution with the department of revenue by agreement, compromise or judgement. The amount of such bond shall be determined by the board of aldermen but shall not be more than three times the average monthly tax liability of the licensee/taxpayer;

(2) Post a cash bond with the city clerk. The amount of such bond shall be determined by the board of aldermen but shall not be more than three times the average monthly tax liability of the licensee/taxpayer; or

(3) Forfeit the license issued by the city.

(c) In the event that the licensee is in defalcation and the city has refused to reissue the license, the license shall automatically be extended for a thirty day period, during which time the licensee may cure such defalcation or post a bond in accordance with paragraph (1) or (2) of subsection (b) of this section.

(d) At such time as the board of aldermen shall deem the amount of a bond required by this section to be insufficient to cover the average monthly tax liability of a given licensee/taxpayer, it may require such licensee/taxpayer to adjust the amount of the bond to the level satisfactory to the board of aldermen which will cover the amount of such liability.

(e) The board of aldermen may require the posting of a bond to insure the payment of sales tax in the instances of itinerant or temporary licensees/taxpayers, in such amount as the board may determine. The board of aldermen shall, after a reasonable period of satisfactory tax compliance, not less than two years from the initial date of bonding, release such licensee/taxpayer from the bond requirement as set forth in this section. All itinerant or temporary licensees/taxpayers shall be required to procure the license and post the bond required under this section prior to the issuance of any liquor or merchant's license, the amount of such bond to be determined by the board of aldermen.

(f) All cash bonds shall be deposited by the city treasurer into the city treasury and shall be released to the taxpayer pursuant to subsection (e) of this section from funds appropriated by the board of aldermen for such purpose. If appropriated funds are available, the city treasurer shall cause such refunds to be paid within thirty days of the receipt of a warrant request for such payment from the board of aldermen.

Section 12-20. Schedule of Fees; Exceptions; Separate License Required for Each Place of Business. [Ord. No. 299, §3; Ord. No. 551, §1; Ord. No. 616, §1; Ord. No. 947 §1; Ord. No. 1194 §2, 9-19-1995; Ord. No. 1213 §§1-2, 2-20-1996; Ord. No. 1454 §1-2, 5-16-2000; Ord. No. 1611 §1, 5-21-2002]

(a) There is hereby levied an annual license tax of twenty-five dollars ($25.00) upon the privilege of engaging in the following businesses, employments, occupations and activities within the City:

1. Agencies for collection.
2. Agents for express.
3. Agents for insurance.
4. Agents for laundries and cleaners.
5. Agents for loan companies.
6. Agents for manufacturers.
7. Agents for miscellaneous.
8. Agents for real estate.
9. Abstractors.
10. Auctioneers.
11. Amusements.
12. (Reserved)
13. Architects.
14. Artists.
15. Automobile agencies.
16. Automobile dealers.
17. Automobile repair shops.
18. Automobile repair shops combined with automobile dealers or agencies or public garages.
19. Automobile wrecking shops.
20. Banks and trust companies.
21. Barbershops.
22. Baseball parks.
23. Billiard tables.
24. Bill posters.

25. Blacksmith shops.
26. Boardinghouses.
27. Book stores.
28. Bookbinders.
29. Bowling alleys.
30. Boxing and sparring exhibitions.
31. Brokers.
32. Business office.
33. Butchers.
34. Canvassers.
35. Chiropodists.
36. Circuses and shows.
37. Cleaning and dyeing, carpet cleaners.
38. Cobblers and shoe repair.
39. Concerts.
40. Confectioners.

Contractors:

41. Brick.
42. Bridge.
43. Building.
44. Cement and concrete.
45. Electrical.
46. General.
47. Paint and paper hanging.
48. Plastering.
49. Sewer.
50. Stone and marble.
51. Street.
52. Corn doctors.

53. Dances or balls, public.

54. Dance halls.

55. Dealers in automobile accessories.

56. Delivery trucks: ice, dairy products, tea or coffee, meats, bakery products, lunch wagons, laundry or agents for the aforegoing.

57. Drays.

58. Druggists.

59. Employment offices and agencies.

60. Exhibitions, boxing and wrestling.

61. Exhibitions: equestrian performances, puppet shows, legerdemain, tumbling, wax figures, ventriloquism, pony tracks, rope or wire walking, mechanical rides, merry-go-rounds, etc.

62. Exhibitions: theatrical, operatic or minstrel, other than for charitable, religious or benevolent purposes.

63. Express companies.

64. (Reserved)

65. Gasoline filling stations.

66. Gaugers.

67. Golf tees.

68. Grocers.

69. Hairdressers and beauty parlors.

70. Halls, public.

71. Haulers.

72. Hawkers and hucksters.

72.1. Home occupations.

73. (Reserved)

74. Horse or cattle dealers.

75. Hospital, private.

76. Hospital, for profit.

77. Hotels.

78. Ice cream stands.

79. Ice cream and soft drink stands combined.
80. Inspectors.
81. Insurance companies.
82. Junk dealers.
83. Launderettes.
84. Laundries.
85. Lectures, public.
85.1. Limousine service.
86. Loan companies.
87. Lumber dealers.
88. Lung testers.
89. Magnifying glasses.
90. Manufacturers.
91. Masseur.
92. Menageries.
93. Merchants.
94. Money brokers.
95. Money changers.
96. Motels.
97. Moving companies.
98. Moving picture shows.
99. Muscle developers.
100. Museums.
101. Newspaper offices.
102. Nurseries; child care.
103. Nursing homes.
104. Office buildings.
105. Omnibuses.
106. Opera houses.
107. Ordinaries.

108. Parades and exhibitions.
109. Parking lots for profit.
110. Patent right dealers.
111. Pawnbrokers.
112. Peddlers.
113. Photographers.
114. Pinball tables.
115. Pistol galleries.
116. Plumbers.
117. Pool tables and other tables.
118. Private venereal hospitals.
119. Public buildings.
120. Public garages.
121. Public halls.
122. Public lectures.
123. Public masquerade balls, street exhibitions and dance houses.
124. Public meetings.
125. Rental service.
126. Restaurants.
127. Sales of unclaimed goods by express companies.
128. Shoeshine parlor.
129. Shooting galleries.
130. Sign painters.
131. Soda fountains.
132. Soft drink stands.
133. Stockyards.
134. Storage warehouses.
135. Street fairs and carnivals.
136. Tanneries.
137. Taverns.

138. Telescopic views.

139. Tippling houses.

140. Title examiners.

141. Transfer and other vehicles.

142. Trash collectors.

143. Traveling and auction stores.

144. Undertakers.

145. Vendors.

146. Warehouses.

(b) A separate license tax is hereby imposed and shall be paid for each business activity or occupation listed above notwithstanding that more than one business activity or occupation may be carried on, owned or operated by the same person.

(c) An annual business license tax shall be imposed for each point of sale within an establishment for which there is issued a Missouri Sales Tax Number. The intent of this Section is to provide for the issuance of a single annual business license to proprietors operating establishments which have a centralized point of sale.

(d) There is hereby established an annual amusement park business license tax in the amount of three-eighths (3/8) of one percent (1%) on gross receipts generated by and within all amusement parks located in the City of Eureka. Such annual amusement park business license tax shall be calculated based on the previous calendar year's amusement park gross receipts. In the event that the previous calendar year's actual gross receipts are not determined by the due date of January first (1st), an estimated amount based on the prior year's actual gross receipts shall be remitted to the City. The City is to be provided written notification of any adjustments necessary to the amusement park business license tax by no later than April first (1st) after the actual gross receipts from the previous calendar year are determined. Such amusement park business license tax adjustment notification shall be accompanied by additional payment or the amount to be refunded as applicable.

Section 12-21. Display of License. [Ord. No. 299, §5]

Whoever shall obtain a license under this article shall keep the same in a conspicuous place so that it may be readily seen by the general public and by any police officer or any other official of the city.

Section 12-22. When Fees Payable; Prorating of Fees. [Ord. No. 299, §6]

All licenses and fees required by this article shall become due and payable on the first day of January of each year; provided, that if an applicant commences business on or after the first day of July, he shall be required to pay only one-half of the license fee.

Section 12-23. Form of License; Sales Tax Information. [Ord. No. 299, §7]

(a) It shall be the duty of the city collector or city clerk to furnish the licenses required by this article and they shall be in the following form:

MERCHANTS LICENSE

(SERIALLY NUMBERED)

No. _____

THE CITY OF EUREKA, MISSOURI

TO ALL WHOM SHALL SEE THESE PRESENTS = = Greeting:

Know ye that _____, having made application to the City of Eureka on _____, 19_____, for license as _____ in accordance with the applicable ordinances and _____, having complied with the requirements of the ordinances governing such cases, and having paid to the City Collector the sum of $_____, being the license tax upon _____, is hereby authorized to operate a business as a _____ except as otherwise provided by ordinance, at any one stand, store or place of business within the City, for the period ending on the thirty-first day of December, 19_____.

Applicant declares his Missouri State Sales Tax Number to be: _____

This license is issued subject to compliance by the licensee with all ordinances and regulations of the City now in force and with those enacted during the term of this license.

_____Mayor

_____City Clerk

Countersigned and Seal

_____

City Collector

(b) All applicants for licenses shall provide for use in the license the correct identification or account number assigned to the applicant's business by the sales tax division of the state department of revenue, and if no such identification or account number has been assigned, then the applicant shall submit an affidavit stating the facts upon which the sales tax exemption is based. Any change in the sales tax status of the licensee shall be reported to the city when the license required by this article is first renewed after the change in sales tax status occurs.

Section 12-24. Transfer Fee. [Ord. No. 551, §3]

Licenses issued under this chapter are issued for a specific business at a specific location. If the business to which a merchant's license is issued moves to another location within

the city at which it will conduct its business, there shall be, in addition to the regular license tax applicable under this chapter, a one dollar transfer fee.

Section 12-25. Penalty. [Ord. No. 551, §4]

Whoever shall engage in any of the business activities or occupations listed in this article without first being issued a license, or who shall engage in a business activity after moving to a new location within the city without having paid the transfer fee provided for in section 12-24, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one dollar nor more than one hundred dollars or by imprisonment in the city jail or workhouse for a period not to exceed ninety days or by both such fine and imprisonment. Each day that a person shall engage in a business activity or occupation listed in this article without having paid the license tax or transfer fee levied herein shall be deemed a separate offense.

ARTICLE IV
Massage Establishment Code

Section 12-26. How Article to be Cited. [Ord. No. 600, §1]

This article shall be cited as the "Massage Establishment Code."

Section 12-27. Definitions. [Ord. No. 600, §1]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ADMINISTRATOR — The city administrator.

APPLICANT — Any person who applies for a permit as required by this article.

EMPLOYEE — Any person, other than a masseur or masseuse, who renders any service to the permittee, who receives compensation or any consideration and who has no physician contact with the permittee's customers or clients.

MASSAGE — Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the body, for medical or hygienic purposes, with the hands or with the aid of any mechanical or electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, unguents or other similar preparations commonly used in this practice.

MASSAGE ESTABLISHMENT — Any establishment having a fixed place of business, wherein massage is given, engaged in or carried on, or permitted to be given, engaged in or carried on, for any form of consideration.

MASSEUR OR MASSEUSE — Any person who administers to another person, for any form of consideration, massage.

OUTCALL MASSAGE SERVICE — Any business not licensed as a massage establishment under the provisions of this article wherein massage is given, engaged in or

carried on, or permitted to be given, engaged in or carried on, for any form of consideration, not at a fixed location, but at a location designated by the masseur or masseuse, customer or client.

PERMITTEE — Any person receiving a permit to operate or massage establishment or outcall massage service under the provisions of this article.

Section 12-28. Exceptions to Article. [Ord. No. 600 §1; Ord. No. 1339 §1, 2-17-1998]

The provisions of this article shall not apply to properly licensed and certified massage therapists operating in or from an approved establishment, hospitals, nursing homes, sanitaria, persons holding an unrevoked certificate of entitlement to practice the healing arts under the laws of the State, barbers and beauticians duly licensed by the State, athletic trainers or persons working under the direction and control of such persons or in any such establishments.

Section 12-29. (Reserved) [2]

Section 12-30. Permit — Required; Application; Fee; Appeals. [Ord. No. 600, §1; Ord. No. 1129 §2, 10-4-1994]

(a) It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a massage establishment or an outcall massage service, as herein defined, without first having obtained a permit duly issued by the administrator as set forth herein.

(b) It shall be unlawful for any person to engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, the operation of a massage establishment or outcall massage service, as herein defined, or to perform or engage in massage, as herein defined, for any form of consideration, in any "motor vehicle" as defined in section 13-1, as amended, any "trailer" as defined in sections 23-1 and 23-75, as amended, or any "vehicle" as defined in section 13-1, as amended.

(c) Application for a permit to engage in the business of massage establishment shall be obtained from the administrator and shall contain the following:

(1) The present address and two previous addresses (if any) within the three years immediately prior to the present address of the individual or partnership applicant;

(2) Written proof that the individual or partnership applicant is eighteen years of age or older;

(3) Individual or partnership applicant's height, weight, color eyes, color hair and sex;

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[2]. **Editor's Note — Ord. No. 1129 §1 adopted on 10-4-1994 repealed §12-29 which originally derived from Ord. No. 600 §1.**

(4) Two portrait photographs at least two inches by two inches of each individual or partnership applicant;

(5) Businesses, occupations or employments of the individual or partnership applicant for the three years immediately preceding the date of the application;

(6) The history of the individual or partnership applicant in the operation of a massage establishment, outcall massage service or similar business or occupation;

(7) All convictions of each individual or partnership applicant for violations of criminal statutes or ordinances;

(8) The name, address and two portrait photographs at least two inches by two inches of each masseur, masseuse and employee who is to be employed in such establishments, or engaged as an independent contractor therein, and the terms and conditions of such employment or contract;

(9) Written proof that each masseur, masseuse or employee to be employed by such establishment, or engaged as an independent contractor therein, is eighteen years of age or older;

(10) Written proof of the training and experience in the field of massage of each masseur and masseuse to be employed by such establishment, or engaged as an independent contractor therein;

(11) All convictions of each masseur, masseuse, employee or independent contractor, of violations of criminal statutes or ordinances, other than minor traffic violations, and lawful pardons or rehabilitative activity related thereto;

(12) If applicant is a corporation, each officer, director and stockholder thereof shall furnish to the administrator the information required in paragraphs (1) through (7) of this subsection;

(13) If the applicant is a corporation, a photostatic copy of the certificate of incorporation as issued by the secretary of state, or from any other state in which incorporated; and a copy of the articles of incorporation;

(14) The address of the location of the premises, and a description or drawing, map or diagram of the area of the premises to be used as a massage establishment.

(d) Applicant for a permit to engage in the business of an outcall massage service shall be obtained from the administrator, and shall contain the following:

(1) All of the information required of an applicant for a massage establishment permit, found in paragraphs (1) through (13) of subsection (c) of this section;

(2) The address of the premises to be used as the base of operations, headquarters or office of the proposed outcall massage service.

(e) [Repealed by Ord. No. 1129 §2, 10-4-1994]

(f) Upon receipt of the application for a massage establishment or outcall massage service permit, the administrator shall refer the application to the zoning commission, city marshal and building commissioner. Each of these departments or divisions shall, within thirty days of the date of submission of such application, review the submitted information and/or make an inspection of the premises proposed to be used as a massage establishment or outcall massage service and submit a written report to the administrator concerning compliance with the provisions of this article and all other applicable statutes and ordinances.

(g) The administrator shall issue such massage establishment or outcall massage service permit if it is found:

(1) That the operation, as proposed by applicant, complies or would comply with all applicable statutes and ordinances, including, but not limited to, the city's Building Code, zoning ordinances and health ordinances;

(2) That applicant, or if applicant is a corporation, the officers, directors and stockholders as stated herein, the masseurs and masseuses to be employed by such establishment or service or engaged as independent contractors therein and employees shall be eighteen years of age or older; and

(3) That applicant, or if applicant is a corporation, the officers, directors and stockholders as stated herein, the masseurs and masseuses to be employed by such establishment or service or engaged as independent contractors therein and employees shall be of good moral character.

Otherwise, such permit shall be denied. In the event of denial, notification and reasons for denial shall be set forth in writing and shall be sent to applicant by means of certified mail or hand delivery.

(h) An appeal may be taken by any aggrieved party to the circuit court of the county, pursuant to the provisions of section 536.150 of the Revised Statutes of Missouri.

(i) The permittee shall submit to the administrator the name, address and two portrait photographs, at least two inches by two inches, of each masseur, masseuse, independent contractor and employee, that is, subsequent to the issuance of the permit, employed or engaged in such establishment during the term of the permit.

Section 12-31. Same — Term; Renewal. [Ord. No. 600, §1; Ord. No. 1129 §2, 10-4-1994]

(a) All permits for a massage establishment or outcall massage service shall be for a period of one year. All permits for massage establishments or outcall massage services issued prior to the passage of this amendment to the Massage Establishment Code shall expire on September 30, 1980.

(b) Applications for renewal of massage establishment or outcall massage service permits shall be obtained from the administrator and shall contain the same information as required for an original massage establishment or outcall massage service permit.

(c) Repealed by Ord. No. 1129 §2, 10-4-1994.

(d) Applications for renewal of massage establishments or outcall massage service permits shall be submitted to the administrator within thirty days of the date of expiration of such permit, and a determination on such renewal application shall be made within thirty days of the receipt of the application.

(e) Notification and appeal procedures with regard to renewal of permits shall be the same as required in section 12-30.

Section 12-32. Same — Display. [Ord. No. 600, §1]

(a) The permittee shall display the massage establishment or outcall massage service permit issued in an open and conspicuous location on the premises or in the base of operations, headquarters or office.

(b) The permittee shall maintain on the premises of the massage establishment or in the base of operations, headquarters or office of the outcall massage service a written register with the names, addresses and portrait photographs at least two inches by two inches of all masseurs and masseuses, whether employed by the permittee or engaged as independent contractors, and employees. Such register shall be open for inspection during business hours to all officials of the city and the county.

(c) Masseurs, masseuses, employees and permittee shall carry a copy of the permits issued herein when performing any activity relating to an outcall massage service.

(d) An appeal may be taken by an aggrieved party to the circuit court of the county in accordance with the provisions of section 536.100 et seq., of the Revised Statutes of Missouri.

Section 12-33. Promulgation of Sanitation Regulations. [Ord. No. 600, §1]

The administrator is authorized to promulgate reasonable rules and regulations pertaining to the sanitary requirements for the operation of massage establishments, and outcall massage services. The permittee, masseurs, masseuses, employees and customers shall comply with all such rules and regulations as promulgated herein.

Section 12-34. Alcoholic Beverages Prohibited. [Ord. No. 600, §1]

The possession and/or consumption of alcoholic beverages on the premises of any massage establishment is hereby prohibited and the permittee shall be held responsible if any alcohol is possessed or consumed on the premises.

Section 12-35. Transfer of Permit. [Ord. No. 600, §1]

No massage establishment or outcall massage service permit shall be transferable except upon first having obtained a new permit from the administrator pursuant to all of the requirements for a new applicant.

For purposes of this section, a "transfer" shall be deemed to have taken place if there is any change in an individual permittee, any change in any partner in a partnership permittee, or any change in an officer, director or stockholder of a corporate permittee.

Section 12-36. Hours of Operation. [Ord. No. 600, §1]

Any massage establishment or outcall massage service located in the city shall not be open, nor conduct operation, between the hours of 1:30 A.M. and 6:00 A.M.

Section 12-37. Penalties. [Ord. No. 600, §1]

Any person who violates any of the provisions of this article shall, upon conviction, be sentenced to not more than six months, or not more than a five hundred dollar fine, or by both such sentence and fine.

ARTICLE V
Special Events

Section 12-38. Special Events. [Ord. No. 1290 §1, 6-17-1997]

Any person, group, organization or other entity who wishes to conduct a special event shall be required to apply for and have issued by the City a special event permit, unless otherwise regulated by the City. A special event shall include a fireworks display, concert, rodeo or similar event which requires the erection of a structure, where parking, traffic, public safety, Police or fire protection would be affected. A special event permit application shall be completed by the applicant detailing a description of the event and when the event is proposed to be held. All applications shall be submitted to and reviewed by the City Administrator. At the City Administrator's discretion, he may forward the application to the Board of Aldermen for consideration. Any authority granted may be suspended or withdrawn if in the City's opinion the special event is operated or conducted in a manner inconsistent with representations made on the application, or is inconsistent with verbal representations made by the applicant during consideration of the subject application.

ARTICLE VI
Miscellaneous Provisions

Section 12-39. Residential Property Auctions. [Ord. No. 2166 §§1-2, 4-19-2011]

Auctions may be conducted in residential districts or on residentially utilized property in the City under the following conditions:

(1) Such auction activity may only be conducted on lots a minimum of one (1) acre in size.

(2) An auction may be held on a particular residential property no more frequently than once every twelve (12) months.

(3) No auction activity may create a public safety or traffic hazard.

Chapter 13

MOTOR VEHICLES AND TRAFFIC

ARTICLE I
In General

Section 13-1. Definitions. [Ord. No. 252 §1, Ord. No. 848 §1; Ord. No. 1077 §§1-2, 1-18-1994]

The following words and phrases, when used in this Chapter, shall have the meanings set out herein:

ABANDONED VEHICLE — Any motor vehicle or trailer of any type, or part or parts thereof, situated on property or upon any street or highway and which does not have displayed thereon a permanent license plate or set of plates issued for that vehicle indicating current registration by a State or country or for which no arrangements have been made for its storage with the owner or occupant of the premises on which it is located or the owner of which has indicated by his words or actions his intent to leave the same and no longer claim ownership thereof.

ALLEY OR ALLEYWAY — Any street with a roadway of less than twenty (20) feet in width.

AUTHORIZED EMERGENCY VEHICLE — 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.

AXLE LOAD — The total load transmitted to the road by all wheels whose centers are included between two (2) parallel transverse vertical planes forty (40) inches apart, extending across the full width of the vehicle.

BICYCLE — Every vehicle propelled solely by human power upon which any person may ride, having two (2) tandem wheels, except scooters and similar devices.

BODY SHOP — A business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting.

BUS — A motor vehicle primarily for the transportation of a driver and eight (8) or more passengers but not including shuttle buses.

BUSINESS DISTRICT — The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including, but not limited to, hotels, banks, office buildings, railroad stations and public buildings which occupy at least three hundred

(300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway.

CENTRAL BUSINESS (OR TRAFFIC) DISTRICT — All streets and portions of streets within the area described by City ordinance as such.

COMMERCIAL MOTOR VEHICLE — A motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight (8) passengers but not including vanpools or shuttle buses.

COMPACT MOTOR VEHICLE — A self-propelled passenger vehicle having a compact classification with respect to its dimensions by recognized governmental agencies; however, such shall not include trucks or utility vehicles. [Ord. No. 2296 §1, 4-1-2014]

CONTROLLED ACCESS HIGHWAY — 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.

COTTON TRAILER — A trailer designed and used exclusively for transporting cotton at speeds less than forty (40) miles per hour from field to field or from field to market and return.

CROSSWALK

(a) 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.

(b) 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 — A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

DEALER — Any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers.

DERELICT VEHICLE — Any partially dismantled, non-operating, wrecked or junked motor vehicle or trailer of any type.

DIRECTOR OR DIRECTOR OF REVENUE — The director of the Department of Revenue.

DRIVEAWAY OPERATION — The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two (2) or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale.

DRIVER — Every person who drives or is in actual physical control of a vehicle.

FARM TRACTOR — A tractor used exclusively for agricultural purposes.

FREIGHT CURB LOADING ZONE — A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight or passengers.

GROSS WEIGHT — The weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon.

HAIL-DAMAGED VEHICLE — Any vehicle, the body of which has become dented as the result of the impact of hail.

HIGHWAY — 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.

IMPROVED HIGHWAY — A highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaces in such a manner that it shall have a hard, smooth surface.

INTERSECTING HIGHWAY — Any highway which joins another, whether or not it crosses the same.

KIT VEHICLE — A motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit. A "kit" may include the cab, drive train and other components.

LAND IMPROVEMENT CONTRACTOR'S COMMERCIAL MOTOR VEHICLE — Any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred (100) miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects involving soil and water conservation, or to and from equipment dealers maintenance facilities or maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of twenty-five (25) miles from its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation.

Nothing in this definition shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle.

LOCAL COMMERCIAL MOTOR VEHICLE — A commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than twenty-five (25) miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by such person or under his control by virtue of landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm.

LOCAL TRANSIT BUS — A bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone adjacent thereto, forming a part of a public

transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone.

LOG TRUCK — A vehicle used exclusively to transport harvested forest products to and from forested sites which is registered under this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products.

MAJOR COMPONENT PARTS — The rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue under rules and regulations or by illustrations.

MANUFACTURER — Any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles for sale.

MOBILE SCRAP PROCESSOR — A business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling.

MOTOR CHANGE VEHICLE — A vehicle manufactured prior to August, 1957, which received a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number.

MOTOR VEHICLE — Any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and all-terrain vehicles.

MOTORCYCLE — Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

MOTORIZED BICYCLE — Any two-wheeled or three-wheeled device having fully operative pedals capable of propulsion by human power, an automatic transmission and a motor with a cylinder capacity of not more than fifty (50) cubic centimeters, which produces less than two (2) gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground, shall be considered a motor vehicle for purposes of any homeowners' or renters' insurance policy.

MOTORTRICYCLE — A motor vehicle operated on three (3) wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third (3rd) wheel.

MUNICIPALITY — Any city, town or village whether incorporated or not.

NON-RESIDENT — A resident of the state or country other than the State of Missouri.

OPERATOR — Any person who operates or drives a motor vehicle.

OWNER — Any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such

conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law.

PUBLIC GARAGE — A place of business, where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business.

REBUILDER — A business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers or persons or property.

RECONSTRUCTED MOTOR VEHICLE — A motor vehicle which has received damage and is repaired, assembled, or reconstructed by means of three (3) or more new or used major component parts, as defined in this section, including but not limited to such major component parts that have been derived from other motor vehicles, or makes of motor vehicles.

RECREATIONAL MOTOR VEHICLE — Any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purpose of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered.

SALVAGE DEALER AND DISMANTLER — A business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories.

SCHOOL BUS — Any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes.

SHUTTLE BUS — A motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles.

SPECIAL MOBILE EQUIPMENT — Every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this Section.

SPECIALLY CONSTRUCTED MOTOR VEHICLE — A motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles.

TANDEM AXLE — A group of two (2) or more axles, arranged one (1) behind the another, the distance between the extremes of which is more than forty (40) inches and not more than ninety-six (96) inches apart.

TRAILER — Any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semi-trailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in this section and shall not include manufactured homes as defined in section 700.010, RSMo.

TRUCK — A motor vehicle designed, used, or maintained for the transportation of property.

TRUCK-TRACTOR — A self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semi-trailer, it supports a part of the weight thereof.

USED PARTS DEALER — A business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. Business does not include isolated sales at a swap meet of less than three (3) days.

VANPOOL — Any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight (8) nor more than forty-eight (48) employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term "bus" or "commercial motor vehicle" as defined above in this section, nor shall a vanpool driver be deemed a "chauffeur" as that term is defined by section 302.010, RSMo., nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement.

VEHICLE — Any mechanical device on wheels, designed primarily for use on highways, except motorized bicycles and vehicles propelled or drawn by human power, or vehicles used exclusively on fixed rails or tracks or cotton trailers.

Section 13-1.1. Using Vehicle for Display Advertising. [Ord. No. 350, §3]

It shall be unlawful for any person, firm or corporation to park upon any street, highway, roadway or thoroughfare within the city any vehicle for the primary purpose of display advertising.

Section 13-1.2. (Reserved) [Repealed by Ord. No. 1096 §1, 4-19-1994]

ARTICLE II
Traffic Administration

Section 13-2. Police Administration. [Ord. No. 252, §1]

There is established in the police department of the city a traffic division to be under the control of an officer of police appointed by and directly responsible to the chief of police.

Section 13-3. Duty of Traffic Division. [Ord. No. 252, §1]

The traffic division, with such aid as may be rendered by other members of the police department, shall enforce the street traffic regulations of the city and all of the state vehicle laws applicable to street traffic in the city, to make arrests for traffic violations, to investigate accidents and to cooperate with the board of aldermen and officers of the city in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and to carry out those duties specially imposed upon the division by this chapter and the traffic ordinances of the city.

Section 13-4. Records of Traffic Violations. [Ord. No. 252, §1]

(a) The police department or the traffic division thereof shall keep a record of all violations of the traffic ordinances of the city or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall be so maintained as to show all types of violations and the total of each. The record shall accumulate during at least a five-year period and from that time on the record shall be maintained complete for at least the most recent five-year period.

(b) All forms for records of violations and notices of violations shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.

(c) All such records and reports shall be public records.

Section 13-5. Traffic Division to Investigate Accidents. [Ord. No. 252, §1]

It shall be the duty of the traffic division, assisted by other police officers of the department, to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

Section 13-6. Traffic Accident Studies. [Ord. No. 252, §1]

Whenever the accidents at any particular location become numerous, the traffic division shall cooperate with the board of aldermen in conducting studies of such accidents and determining remedial measures.

Section 13-7. Traffic Accident Reports. [Ord. No. 252, §1]

The traffic division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. Such reports shall be available for the use and information of the board of aldermen.

Section 13-8. Driver Files to be Maintained. [Ord. No. 252, §1]

The police department or the traffic division thereof shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.

Section 13-9. Traffic Division to Submit Annual Traffic Safety Report. [Ord. No. 252 §1]

The traffic division shall annually prepare a traffic report which shall be filed with the mayor. Such report shall contain information on traffic matters in the City as follows:

(a) The number of traffic accidents, the number of persons killed, the number of persons injured and other pertinent traffic accident data.

(b) The number of traffic accidents investigated and other pertinent data on the safety activities of the Police.

(c) The plans and recommendations of the division for future traffic safety activities.

Section 13-10. Traffic Division to Designate Method of Identifying Funeral Processions. [Ord. No. 252 §1]

The Traffic Division shall designate a type of pennant or other identifying insignia to be displayed upon, or other method to be employed, to identify the vehicles in funeral processions.

ARTICLE III
Enforcement and Obedience to Traffic Regulations

Section 13-11. Authority of Police and Fire Department Officials. [Ord. No. 252 §1; Ord. No. 1065 §1, 7-6-1993; Ord. No. 1645 §1, 9-17-2002]

(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 street traffic in the City.

(b) Officers of the Police Department or such officers as are assigned by the Chief of Police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the Fire Department, when at the scene of an incident, may direct or assist the Police in directing traffic thereat or in the immediate vicinity.

(d) *Authority To Enforce Traffic Regulations On Private Property.* The Mayor, with the approval of the Board of Aldermen, upon application of an owner or lessor of land, either publicly or privately owned, open to vehicular traffic to the public and used by the public as a thoroughfare with such thoroughfare paved, marked and delineated, may enter into an agreement with such owner or lessor to extend the enforcement of traffic regulations to such thoroughfares within the City limits of Eureka without requiring the owner to dedicate public right-of-way to the City; provided that the City of Eureka shall not be responsible for the maintenance or condition of such private thoroughfare and shall retain the power to terminate said agreement at will.

Section 13-12. Obedience to Police and Fire Department Officials. [Ord. No. 252 §1]

No person shall willfully fail or refuse to comply with any lawful order or direction of a Police Officer or Fire Department official.

Section 13-13. Persons Propelling Pushcarts or Riding Animals to Obey Traffic Regulations. [Ord. No. 252 §1]

Every person propelling any pushcart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this Chapter applicable to the driver of any vehicle, except those provisions of this Chapter which by their very nature can have no application.

Section 13-14. Use of Coasters, Roller Skates, Skateboards and Similar Devices Restricted. [Ord. No. 252 §1; Ord. No. 1323 §1, 11-18-1997]

(a) No person upon roller skates, or riding in or by means of any coaster, skateboard, toy vehicle or similar device, shall go upon any roadway in any zoning district 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.

(b) No person shall use, operate or permit the use or operation of any coaster, roller skates, skateboard or like instrument on any sidewalk, street, parking lot or other public place within commercial or industrial districts of the City.

(c) No person shall use, operate or permit the use or operation of any coaster, roller skates, skateboard or like instrument on any sidewalk, street, parking lot or other public place within residential districts of the City if such activity presents a traffic, safety or other hazard.

(d) The Police Officers of the City are hereby authorized to impound the roller skates, coaster, skateboard, toy vehicle or similar device of such person and to retain possession of same until such time as the parent or guardian of the violator shall appear at the Police Department and claim such.

Section 13-15. Public Employees to Obey Traffic Regulations. [Ord. No. 252 §1]

The provisions of this Chapter shall apply to the driver of any vehicle owned by or used in the service of the United States Government, this State, County or City, and it shall be unlawful for any such driver to violate any of the provisions of this Chapter, except as otherwise permitted in this Chapter.

Section 13-16. Emergency Vehicles. [Ord. No. 252 §1; Ord. No. 1078 §§1 — 2, 1-18-1994; Ord. No. 1651 §1, 10-1-2002]

Upon the immediate approach of an emergency vehicle giving audible signal by siren and having at least one (1) lighted lamp exhibiting a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle or a flashing blue light authorized by Section 307.175, RSMo., 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 or roadway and thereupon stop and remain in such position until such emergency vehicle has passed, except when otherwise directed by a Police or Traffic Officer.

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 (4) lanes with not less than two (2) 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.

(3) An *"emergency vehicle"* is a vehicle of any of the following types:

(a) A vehicle operated by the State Highway Patrol, those vehicles operated by enforcement personnel by the Division of Transportation of the Department of Economic Development, Police or Fire Department, Sheriff, Constable or Deputy Sheriff, Federal Law Enforcement Officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer or Coroner, or by a privately owned emergency vehicle company.

(b) A vehicle operated as an ambulance or operated commercially for the purpose of transporting emergency medical supplies or organs.

(c) Any vehicle qualifying as an emergency vehicle under Section 307.175, RSMo.

(d) Any wrecker or tow truck or a vehicle owned and operated by a public utility or public service corporation while performing emergency service.

(e) Any vehicle transporting equipment designed to extricate human beings from the wreckage of a motor vehicle.

(4) The driver of any vehicle referred to in Subdivisions (a), (b), (c), (d) and (e) of Subsection (3) of this Section shall not sound the siren thereon or have the front red lights or blue lights on except when said 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 return from, a fire.

(5) The driver of an emergency vehicle may:

(a) Park or stand, irrespective of the provisions of Sections 304.014 to 304.026, RSMo.

(b) Proceed past a red 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 he does not endanger life or property.

(d) Disregard regulations governing direction of movement or turning in specified directions.

(6) The exemptions herein granted to an emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by siren as may be reasonably necessary, or when the vehicle is equipped with at least one (1) lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle.

(7) No person shall purchase an emergency light as described in this Section without furnishing the seller of said light an affidavit stating that the light will be used exclusively for emergency vehicle purposes.

Section 13-17. Failure to Maintain a Secure Load. [Ord. No. 1079 §§1 — 2, 1-18-1994]

(a) All motor vehicles and every trailer and semi-trailer operating upon the public roadways of this City and carrying goods or material or farm products which may reasonably be expected to become dislodged and fall from the vehicle, trailer or semi-trailer as a result of wind pressure or air pressure and/or by the movement of the vehicle, trailer or semi-trailer 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 semi-trailer while being transported or carried.

(b) Operation of a motor vehicle, trailer or semi-trailer in violation of this Section shall be a misdemeanor, and any person convicted thereof shall be punished as provided by law.

Section 13-18. Immediate Notice of Accident. [Ord. No. 252 §1]

The driver of a vehicle involved in an accident resulting in injury to or death of any person or total damage to all property to an apparent extent of one hundred dollars ($100.00) or more shall immediately by the quickest means of communication give notice of such accident to the Police Department if such accident occurs within the City.

Section 13-19. Written Report of Accident. [Ord. No. 252 §1]

The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any person or total damage to all property to an apparent extent of one hundred dollars ($100.00) or more shall, within five (5) days after such accident, forward a written report of such accident to the Police Department. The provisions of this Section shall not be applicable when the accident has been investigated at the scene by a Police Officer while such driver was present thereat.

Section 13-20. When Driver Unable to Report Accident. [Ord. No. 252 §1]

(a) Whenever the driver of a vehicle is physically incapable of giving immediate notice of an accident as required in Section 13-18 and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give, or cause to be given, the notice not given by the driver.

(b) Whenever the driver is physically incapable of making a written report of an accident as required in Section 13-19 and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within five (5) days after the accident make such report not made by the driver.

Section 13-21. Police Inspection of Reports Relating to Accidents. [Ord. No. 252, §1]

(a) All written reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the police department or other governmental agencies having use for the records for accident prevention purposes; except, that the police department or other governmental agency may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident.

(b) No written reports forwarded under the provisions of this section shall be used as evidence in any trial, civil or criminal, arising out of an accident; except, that the police department shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department in compliance with law, and, if such report has been made, the date, time and location of the accident, the names and addresses of the drivers, the owners of the vehicles involved and the investigating officers.

ARTICLE IV
Traffic Control Devices

Section 13-22. Authority to Install Traffic Control Devices. [Ord. No. 252, §1]

The board of aldermen shall place and maintain traffic control signs, signals and devices when and as required under the traffic ordinances of the city to make effective the provisions of such ordinances, and may place and maintain such additional traffic control devices as it may deem necessary to regulate traffic under the traffic ordinances of the city or under state law or to guide or warn traffic.

Section 13-23. Manual and Specifications for Traffic Control Devices. [Ord. No. 252, §1]

All traffic control signs, signals and devices shall conform to the manual and specifications approved by the state highway commission or resolution adopted by the board of aldermen of the city. All signs or signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the city. All traffic control devices so erected and not inconsistent with the provisions of this chapter shall be official traffic control devices.

Section 13-24. Obedience to Traffic Control Devices. [Ord. No. 252, §1; Ord. No. 1644 §1, 9-17-2002]

(a) The driver of any vehicle shall obey the instructions of any official traffic control devices applicable thereto placed in accordance with the provisions of this Chapter, unless otherwise directed by a traffic or Police Officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this Chapter.

(b) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this Section, but subject to the conditions herein stated.

(c) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this ordinance;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the maximum speed limits so long as he does not endanger life or property;

(4) Disregard regulations governing direction of movement or turning in specified directions.

(d) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle while in motion sounds audible signal by siren, or while having at least one (1) lighted lamp exhibiting a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle or a flashing blue light authorized by Section 307.175, RSMo.

(e) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

Section 13-25. When Official Traffic Control Devices Required for Enforcement Purposes. [Ord. No. 252, §1]

No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an

official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

Section 13-26. Presumption of Legality. [Ord. No. 252, §1]

(a) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(b) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

Section 13-27. Rules for Traffic Where Controlled by Light Signals - Right Turn on Red Light, When. [Ord. No. 873, §1]

Whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) *Green indication.*

(a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian control signal as provided in section 13-28, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Steady yellow indication.*

(a) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be

exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(b) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian control signal, as provided in section 13-28, 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 at a clearly marked stop line but, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in paragraph (b);

(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, as provided in section 13-28, pedestrians facing a steady red signal alone shall not enter the roadway.

(4) *Erection at other than intersection.* In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

Section 13-28. Pedestrian Control Signals. [Ord. No. 252 §1]

Whenever special pedestrian control signals exhibiting the words "Walk" or "Don't Walk" are in place such signals shall indicate as follows:

(a) *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.

(b) *Wait or Don't Walk.* No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the

walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

Section 13-29. Flashing Signal. [Ord. No. 252, §1]

(a) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(1) *Flashing red (stop signal).* When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) *Flashing yellow (caution signal).* When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in section 13-35.

Section 13-30. Lane Direction Control Signals. [Ord. No. 252, §1]

When lane direction control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green signal is shown, but shall not enter or travel in any lane over which a red signal is shown.

Section 13-31. Display of Unauthorized Signs, Signals or Markings. [Ord. No. 252, §1]

No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

Section 13-32. Interference with Official Traffic Control Devices or Railroad Signs or Signals. [Ord. No. 252, §1]

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any part thereof.

Section 13-33. Authority to Establish Play Streets. [Ord. No. 252, §1]

The board of aldermen shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

Section 13-34. Play Streets Generally. [Ord. No. 252, §1]

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

Section 13-35. Board of Aldermen to Designate Crosswalks and Establish Safety Zones. [Ord. No. 252, §1]

The board of aldermen is hereby authorized:

(a) To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

(b) To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

Section 13-36. Traffic Lanes. [Ord. No. 252, §1]

(a) The board of aldermen is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

(b) Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

ARTICLE V
Speed Regulations

Section 13-37. State Speed Laws Applicable. [Ord. No. 252 §1; Ord. No. 2060 §1, 9-2-2008]

The State traffic laws regulating the speed of vehicles shall be applicable upon all streets within the City; except, that the City may declare and determine upon the basis of engineering and traffic investigation that certain speed regulations shall be applicable upon specified streets or in certain areas, in which event it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared when signs are in place giving notice thereof, but no City ordinance shall regulate the speed of vehicles upon controlled access highways of the State.

Section 13-38. Speed Limits Established. [Ord. No. 370 §1; Ord. No. 381, §1; Ord. No. 463, §1; Ord. No. 478, §1; Ord. No. 511, §3; Ord. No. 538, §§2,3; Ord. No. 547, §1; Ord. No. 550, §1; Ord. No. 614, §2; Ord. No. 749, §1; Ord. No. 760, §1; Ord. No. 775, §1; Ord. No. 793, §1; Ord. No. 844, §1; Ord. No. 874, §1; Ord. No. 882, §§1,2; Ord. No. 1039 §1, 11-17-1992; Ord. No. 1048 §1, 5-4-1993; Ord. No. 1055 §1, 6-1-1993; Ord. No. 1217 §1, 4-2-1996; Ord. No. 1407 §1, 6-1-1999; Ord. No. 1416 §1, 8-17-1999; Ord. No. 1425 §1, 10-5-1999; Ord. No. 1442 §4, 2-15-

2000; Ord. No. 1455 §3, 6-6-2000; Ord. No. 1456 §1, 6-6-2000; Ord. No. 1493 §2, 11-7-2000; Ord. No. 1833 §1, 6-1-2005; Ord. No. 1976 §2, 6-5-2007; Ord. No. 2060 §2, 9-2-2008]

The City is hereby authorized to regulate the speed of all vehicles on all streets within the City, which shall be designated by signage as authorized and erected or directed to be erected by the City. It shall be unlawful for any person to drive at a speed in excess of thirty (30) miles per hour on all streets within the City limits unless otherwise specified by City authorized speed limit signage.

Section 13-39. Regulation of Speed by Traffic Signals. [Ord. No. 252, §1]

The board of aldermen is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof.

Section 13-39.5. Board of Aldermen to Establish and Designate School Zones; Maintenance of Signs; School Zone Speed Limits and Effective Hours. [Ord. No. 935 §1; Ord. No. 1315 §1, 10-21-1997]

(a) Whenever any ordinance of the City designates a street adjacent to school property as a school zone, the Board of Aldermen shall place and maintain such signs, devices, crosswalks and marks or lines upon the surface of the roadway as shall be necessary for the protection of school children and other pedestrians. All such signs, devices, markings, etc. shall conform to the applicable standards of the State Highway Commission.

(b) Signs designating the school zone speed limit shall be maintained at a distance of seventy-five (75) feet from the point at which the street adjoins the nearest property line of the school. Signs designating that a school zone is ahead shall be maintained at a distance of two hundred twenty-five (225) feet from the nearest point at which the street adjoins the property line of the school.

(c) The school zone speed limit shall be in force on school days when children are present.

(d) It shall be unlawful to drive at a speed in excess of twenty (20) miles per hour in all school zones within the City on school days when children are present.

Section 13-39.7. School Zones Established. [Ord. No. 935 §1; Ord. No. 1039 §2, 11-17-1992; Ord. No. 1315 §2, 10-21-1997; Ord. No. 1629 §1, 9-3-2002]

The following streets are designated as school zones in which the provisions of Section 13-39.5 shall apply when conditions exist as set forth in Section 13-39.5(c):

Bald Hill Road (Geggie Elementary School)
East North Street (Blevins Elementary School)
Meramec Boulevard (St. Mark's Lutheran Elementary School)
North Central Avenue (Individualized Learning Center and Central Baptist Pre-school)

Stockell Drive (Individualized Learning Center)

Section 13-39.8. Speeding in a Construction Zone. [Ord. No. 1553 §1, 9-4-2001]

Pursuant to Section 304.580, RSMo., there shall be an additional fine of two hundred fifty dollars ($250.00) for speeding or passing in a construction zone if a construction worker is present. A sign shall be erected by the Missouri Department of Transportation warning drivers that a two hundred fifty dollar ($250.00) fine will be imposed for speeding or passing in a construction zone.

ARTICLE VI
Turning Movements

Section 13-40. Required Position and Method of Turning at Intersection. [Ord. No. 252 §1]

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) *Left turns on two-way roadways.* At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right-half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(c) *Left turns on other than two-way roadways.* At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

Section 13-41. Authority to Place and Obedience to Turning Markers. [Ord. No. 252 §1]

(a) The Board of Aldermen 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.

Section 13-42. Authority to Place Restricted Turn Signs. [Ord. No. 252, §1; Ord. No. 300, §12; Ord. No. 301, §1; Ord. No. 2060 §3, 9-2-2008]

(a) The board of aldermen is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

(b) (Reserved)

Section 13-43. Obedience to No-Turn Signs. [Ord. No. 252, §1]

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.

Section 13-44. Limitations on Turning Around. [Ord. No. 252, §1]

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.

ARTICLE VII
One-Way Streets and Alleys

Section 13-45. Authority to Sign One-Way Streets and Alleys. [Ord. No. 252, §1]

Whenever any ordinance of the city designates any one-way street or alley the board of aldermen 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.

Section 13-46. Traffic on One-Way Streets and Alleys. [Ord. No. 252, §1]

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.

Section 13-46.1. One-Way Streets and Alleys. [Ord. No. 745, §1; Ord. No. 1039 §3, 11-17-1992; Ord. No. 2159 §1, 2-15-2011]

Traffic shall be one-way, southbound, in the alley west of South Central Avenue from West Frisco Street to Dreyer Avenue and one-way, southbound, on Riley Baker Way.

Section 13-47. Authority to Restrict Direction of Movement on Streets During Certain Periods. [Ord. No. 252, §1]

(a) The board of aldermen 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 board of aldermen may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line 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.

ARTICLE VIII
Stop and Yield Intersections, Railroad Crossings, Etc.

Section 13-48. Through Streets Designated. [Ord. No. 252, §1]

Those streets and parts of streets described by ordinances of the city are declared to be through streets for the purposes of this article.

Section 13-49. Signs Required at Through Streets. [Ord. No. 252, §1]

Whenever any ordinance of the city designates and describes a through street, it shall be the duty of the board of aldermen 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, that at the intersection of two such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of such streets as may be determined by the board of aldermen upon the basis of an engineering and traffic study.

Section 13-50. Other Intersections Where Stop or Yield Required. [Ord. No. 875, §1]

The board of aldermen are hereby authorized to determine and designate intersections where particular hazard exists upon other than through streets and determine whether vehicles shall stop at one or more entrances to any such intersection, in which event they shall cause to be erected a stop sign or a light signal at every such place where a stop is required, or whether vehicles yield the right-of-way to vehicles on a different street at such intersection as prescribed at section 13-55, in which event they shall cause to be erected a yield sign at every place where obedience thereto is required.

Section 13-51. Stop Intersections and Other Locations Designated. [Ord. No. 253, §1; Ord. No. 300, §2; Ord. No. 327, §1; Ord. No. 334, §1; Ord. No. 351, §1; Ord. No. 370, §2; Ord. No. 395, §1; Ord. No. 445, §1; Ord. No. 475, §1; Ord. No. 511, §1; Ord. No. 554, §1; Ord. No. 579, §1; Ord. No. 591, §1; Ord. No. 615, §§1,3; Ord. No. 743, §1; Ord. No. 748, §1; Ord. No. 770, §1; Ord. No. 814, §1; Ord. No. 843, §1; Ord. No. 876, §1; Ord. No. 877, §1; Ord. No. 940, §1.; Ord. No. 951 §1, 4-3-1990; Ord. No. 967 §1, 8-7-1990; Ord. No. 980 §1, 12-18-1990; Ord. No. 1026 §1, 5-19-1992; Ord. No. 1039 §§4-5, 11-17-1992.; Ord. No. 1052 §1, 6-1-1993; Ord. No. 1053 §1, 6-1-1993; Ord. No. 1101 §1, 5-17-1994; Ord. No. 1140 §§1 — 2, 11-15-1994; Ord. No. 1200

§1, 12-5-1995; Ord. No. 1398 §1, 3-2-1999; Ord. No. 1425 §2, 10-5-1999; Ord. No. 1426 §1, 10-19-1999; Ord. No. 1442 §2, 2-15-2000; Ord. No. 1455 §2, 6-6-2000; Ord. No. 1467 §1, 7-18-2000; Ord. No. 1479 §1, 9-19-2000; Ord. No. 1493 §1, 11-7-2000; Ord. No. 1529 §1, 6-5-2001; Ord. No. 1571 §1, 11-20-2001; Ord. No. 1578 §1, 12-18-2001; Ord. No. 1597 §1, 3-5-2002; Ord. No. 1607 §1, 4-16-2002; Ord. No. 1626 §1, 8-20-2002; Ord. No. 1654 §1, 10-15-2002; Ord. No. 1661 §1, 12-3-2002; Ord. No. 1695 §1, 6-3-2003; Ord. No. 1704 §1, 7-1-2003; Ord. No. 1750 §1, 3-16-2004; Ord. No. 1775 §1, 8-17-2004; Ord. No. 1791 §1, 9-21-2004; Ord. No. 1870 §1, 11-1-2005; Ord. No. 1886 §1, 1-3-2006; Ord. No. 1934 §1, 8-15-2006; Ord. No. 1942 §3, 9-19-2006; Ord. No. 1958 §1, 2-6-2007; Ord. No. 1976 §1, 6-5-2007; Ord. No. 1981 §1, 6-19-2007; Ord. No. 1990 §1, 8-21-2007; Ord. No. 1994 §1, 9-11-2007; Ord. No. 2015 §1, 11-20-2007; Ord. No. 2035 §1, 3-5-2008; Ord. No. 2036 §1, 3-18-2008; Ord. No. 2060 §4, 9-2-2008]

In accordance with the provisions of Section 13-50, the City is hereby authorized to identify intersections and other locations at which the drivers of all vehicles shall stop, which shall be designated by signage as authorized and erected or directed to be erected by the City.

Section 13-51.1. Yield Intersections Designated. [Ord. No. 445, §1; Ord. No. 615, §2; Ord. No. 747, §1; Ord. No. 878, §1; Ord. No. 1039 §6, 11-17-1992; Ord. No. 2060 §5, 9-2-2008]

In accordance with the provisions of Section 13-50, the City is hereby authorized to identify yield intersections at which the drivers of all vehicles shall yield the right-of-way, which shall be designated by signage as authorized and erected or directed to be erected by the City.

Section 13-52. School Stop Signs. [1]

Section 13-52.1. Stopping When Pedestrian in Crosswalk. [Ord. No. 738 §1]

The board of aldermen is hereby authorized to determine the location of crosswalks and shall place and maintain appropriate signs and striping, indicating the same to denote that motorists must stop when there is a pedestrian in the crosswalk. The driver of a vehicle approaching a crosswalk shall stop before entering the crosswalk on the near side of the intersection if there is a pedestrian in the crosswalk.

Section 13-53. Stop and Yield Signs Generally. [Ord. No. 252 §1]

(a) The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

(b) Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none,

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1. **Editor's Note — Ord. No. 1039 §7, enacted on November 17, 1992 deleted the provisions in this section 13-52 which were derived of Ord. No. 253 §2.**

then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

Section 13-54. Vehicles Entering Stop Intersection. [Ord. No. 252, §1]

Except when directed to proceed by a police officer or traffic control signal every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by subsection (b) of section 13-53, and after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on such highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

Section 13-55. Vehicle Entering Yield Intersection. [Ord. No. 252, §1]

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, that if such a driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield right-of-way.

Section 13-56. Emerging from Alley, Driveway or Building. [Ord. No. 252, §1]

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 such roadway.

Section 13-57. Stop when Traffic Obstructed. [Ord. No. 252, §1]

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

Section 13-58. Obedience to Signal Indicating Approach of Train. [Ord. No. 252, §1]

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet, but not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.

(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train.

(3) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

ARTICLE IX
Miscellaneous Driving Rules

Section 13-59. Following Fire Apparatus Prohibited. [Ord. No. 252, §1]

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

Section 13-60. Crossing Fire Hose. [Ord. No. 252, §1]

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway or streetcar track, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

Section 13-61. Driving Through Funeral or Other Procession. [Ord. No. 252, §1]

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

Section 13-62. Driving in Procession. [Ord. No. 252, §1]

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe.

Section 13-63. Funeral Procession to be Identified. [Ord. No. 252, §1]

A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the traffic division.

Section 13-64. When Permits Required for Parades and Processions. [Ord. No. 252, §1]

No funeral, procession or parade containing two hundred or more persons or fifty or more vehicles except the forces of the United States army or navy, the military forces of this state and the forces of the police and fire departments, shall occupy, march or proceed

along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.

Section 13-65. Vehicles Not to be Driven on a Sidewalk. [Ord. No. 252, §1]

The driver of a vehicle shall not drive within any sidewalk area except as a permanent or temporary driveway.

Section 13-65.1. Driving Vehicles in Public Parks. [Ord. No. 308, §1]

It shall be unlawful for any person to operate a motor vehicle upon and within a public park within the limits of the city except upon the defined roadways thereof.

Section 13-65.2. Detour or Avoidance of Intersection. [Ord. No. 831, §1]

It shall be unlawful for the operator of any vehicle within the city of Eureka to drive on to business property, including but not limited to gas stations, parking lots, driveways and drive-throughs, for the purpose of detouring around or avoiding an intersection.

Section 13-66. Limitations on Backing. [Ord. No. 252, §1]

The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

Section 13-67. Opening and Closing Vehicle Doors. [Ord. No. 252, §1]

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

Section 13-68. Riding on Motorcycles. [Ord. No. 252, §1; Ord. No. 585, §§1, 2]

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the operator.

Every person operating or riding as a passenger on any motorcycle, as defined in section 13-1, upon any highway of this city, shall wear protective headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable standards and specifications established by the state.

Section 13-68.1. Motorcycle's Special License and Protective Headgear. [Ord. No. 832, §1.; Ord. No. 2234 §1, 8-7-2012]

It shall be unlawful for any person who is a resident of Missouri to:

(a) Operate a motorcycle within the City of Eureka unless such person has a valid operator's or chauffeur's license which shows that he has successfully passed an examination for the operation of a motorcycle as prescribed by the Director of Revenue;

(b) Authorize or knowingly permit a motorcycle owned by him or under his control to be driven within the City of Eureka by any person who's operator's or chauffeur's license does not indicate that the person has passed the examination for the operation of a motorcycle or has been issued an instruction permit therefore;

(c) Operate a motorcycle with an instruction permit, or chauffeur's or operator's license issued to another person.

(d) Every person operating or riding as a passenger of any motorcycle smaller than 50cc in size who is less than seventeen (17) years of age shall wear protective headgear at all times the motorcycle is in motion on a public roadway or on a private roadway when a traffic regulation enforcement agreement is in effect. The protective headgear shall meet reasonable standards and specifications as established by the Director of Revenue for the State of Missouri.

Every person operating or riding as a passenger of any motorcycle as defined in section 13-1, within the City of Eureka shall wear protective headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable standards and specifications as established by the Director of Revenue for the State of Missouri.

Section 13-69. Bicycle Equipment. [Ord. No. 1080 §§1 — 2, 1-18-1994]

(a) Every bicycle and motorized bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle or motorized bicycle within twenty-five (25) feet from a speed of ten (10) miles per hour on dry, level, clean pavement.

(b) Every bicycle and motorized bicycle when in use on a street or highway during the period from one-half (½) hour after sunset to one-half (½) 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 five hundred (500) feet.

(2) A rear-facing red reflector, at least two (2) square inches in reflective surface area, 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 six hundred (600) feet.

(3) Essentially colorless or amber reflectors on both the front and rear surfaces of all pedals. Each pedal reflector shall be recessed below the plane of the pedal or reflector housing. Each reflector shall be at least ninety one-hundredths square inches in projected effective reflex area, and must be 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 two hundred (200) feet; and

(4) A side-facing essentially colorless or amber reflector visible on each side of the wheel mounted on the wheel spokes of the front wheel within three (3) inches of the inside of the wheel rim and a side-facing essentially colorless or red reflector mounted on the wheel spokes of the rear wheel within three (3) inches of the inside of the wheel rim, or continuous retroreflective material on each side of both tires which shall be at least three-sixteenths (3/16) of an inch wide. All such reflectors or retroreflective tire sidewalls shall be 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 three hundred (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.

(c) 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 chapter 304, RSMo., except as to special regulations in sections 307.180 to 307.193 and except as to those provisions of chapter 304, RSMo., which by their nature can have no application.

(1) Every person operating a bicycle or motorized bicycle upon a street or highway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(2) Wherever a usable path for bicycles practical for sustained riding for transportation purposes has been officially designated adjacent to a street or highway, bicycle riders shall use such path and shall not use the street or highway.

(d) Any person seventeen (17) years of age or older who violates any provision of sections 307.180 to 307.193 is guilty of an infraction and, upon conviction thereof, shall be punished by a fine of not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00). Such an infraction does not constitute a crime and conviction shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense. If any person under seventeen (17) years of age violates any provision of sections 307.180 to 307.193 in the presence of a peace officer possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, said officer may impound the bicycle or motorized bicycle involved for a period not to exceed five (5) days upon issuance of a receipt to the child riding it or to its owner.

(e) No person shall operate a motorized bicycle on any highway or street in this state unless he has a valid operator's or chauffeur's license.

(1) No motorized bicycle may be operated on any public thoroughfare located within this state which has been designated as part of the federal interstate highway system.

(2) No person shall operate a motorized bicycle on any street or highway in this state unless it is equipped in accordance with the minimum requirements for construction and equipment of MOPEDS, Regulation VESC-17, approved July, 1977, as promulgated by the Vehicle Equipment Safety Commission, this state being a party thereto as provided in section 307.250, RSMo., and the regulation is hereby approved as provided in section 307.260, RSMo., and the regulation shall be published in the code of state regulations.

(3) No person shall ride a bicycle upon a sidewalk within a business district.

(4) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

Section 13-70. Clinging to Vehicle. [Ord. No. 252, §1; Ord. No. 1646 §1, 9-17-2002]

No person riding upon any bicycle, motorized bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway. Neither shall the driver of the vehicle knowingly pull a rider behind a vehicle.

Section 13-71. Controlled Access. [Ord. No. 252, §1]

No person shall drive a vehicle onto or from any controlled access roadway except at such entrances and exits as are established by public authority.

Section 13-71.1. Railroad Trains — Speed Limits; Signs. [Ord. No. 375, §1; Ord. No. 380, §§12; Ord. No. 434, §1]

It shall be unlawful for any individual, partnership, corporation, or agent or employee thereof, to operate any railroad engine, locomotive, train or car within the city limits at a speed in excess of fifty-five miles per hour within one thousand feet of the first railroad-street intersection upon entering the city; or to accelerate the speed of such vehicle beyond fifty-five miles per hour until the engine, locomotive or first car has passed the last intersection upon leaving the city. In no event, except for bona fide emergencies and backing operations, shall the speed of such vehicle be reduced to less than fifteen miles per hour.

The city shall erect and maintain an appropriate sign on the railroad right-of-way at a point one thousand feet east of the easternmost railroad-street intersection and one thousand feet west of the westernmost railroad-street intersection in the city reading as follows:

"1,000 feet from intersection Maximum speed 55 miles per hour Minimum speed 15 miles per hour."

Section 13-72. Same — Blocking Streets. [Ord. No. 252, §1; Ord. No. 375, §2]

It shall be unlawful for any individual, partnership, corporation or agent or employee thereof, to operate any railroad engine, locomotive, train or car within the city limits so as to block any highway, street or avenue for a period of time in excess of five minutes.

Section 13-72.1. Same — Penalties. [Ord. No. 375, §3]

Any person, partnership, corporation or agent or employee thereof, who shall violate or cause to be violated any of the foregoing speed or blockage provisions shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined at the rate of fifty dollars per mile for each mile in excess of the twenty-five mile per hour maximum speed, fifty dollars per mile for each mile less than the fifteen mile per hour minimum speed, to a maximum fine in each instance of not more than five hundred dollars and to a fine not to exceed five hundred dollars for each instance of street or highway blockage, and/or imprisonment in the county jail for not more than six months for each such violation.

Section 13-73. Driving Through Safety Zone Prohibited. [Ord. No. 252, §1]

No vehicle shall at any time be driven through or within a safety zone.

Section 13-73.1. Bridge Weight Limits. [Ord. No. 2146 §1, 11-9-2010; Ord. No. 2248 §1, 11-20-2012]

The following weight limits are imposed on the bridges enumerated and described below:

(a) The bridge located on O'Sullivan Avenue, parallel with Six Flags Road, south of U.S. Highway 66 shall be restricted to vehicles licensed for thirteen (13) tons for single-axle vehicles and twenty-three and four-tenths (23.4) tons for multiple-axle vehicles. This provision shall not apply to utility company vehicles.

(b) All bridges located on Hunters Ford Road shall be restricted to vehicles licensed for thirteen (13) tons for single-axle vehicles and twenty-three and four-tenths (23.4) tons for multiple-axle vehicles. This provision shall not apply to utility company vehicles.

Section 13-73.2. Use of Vehicles Licensed to Haul in Excess of Thirty-Six Thousand Pounds. [Ord. No. 358 §§1, 2; Ord. No. 535 §2; Ord. No. 1538 §1, 7-17-2001]

(a) Except for the limited purpose of effecting occasional pick-up delivery service, no vehicle licensed to haul in excess of thirty-six thousand (36,000) pounds, except for public transportation vehicles, shall be moved or operated on any street, thoroughfare or alley of the City, other than on Allen Road, Main Street east of the Redi-Mix Plant to Central Avenue, and thoroughfares maintained by the State.

(b) Signs giving notice of the foregoing provisions shall be erected and maintained by the City at all points of entrance for vehicular traffic into the City.

Section 13-73.3. Front Seat Passenger Limitation. [Ord. No. 828, §1]

It shall be unlawful for an operator of a motor vehicle within the City of Eureka to allow more than three (3) adults to occupy the front seat of the motor vehicle, except therefrom pickup trucks of 1/2 ton or larger. For purposes of this section, an adult shall be defined as being at least sixteen years of age.

Section 13-73.4. All-Terrain Vehicles Prohibited. [Ord. No. 827, §1; Ord. No. 1640 §1, 9-17-2002; Ord. No. 2048 §1, 6-17-2008]

(a) It shall be unlawful to operate a three- or four-wheeled all-terrain vehicle (ATV) on any roadway, street, City Park, City easements, City right-of-way or highway within the City of Eureka except as follows:

(1) All-terrain vehicles owned and operated by a governmental entity for official use;

(2) All-terrain vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation; and

(3) All-terrain vehicles whose operators carry a special permit issued by this City pursuant to Section 304.013, RSMo.

(b) No person shall operate an off-road vehicle, as defined in Section 304.001, RSMo., within any stream or river in this City, except that off-road vehicles may be operated within waterways which flow within the boundaries of land which an off-road vehicle operator owns or for agricultural purposes within the boundaries of land which an off-road vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this State at such road crossings as are customary or part of the highway system.

(c) It shall be unlawful to operate an all-terrain vehicle on private property within one hundred (100) feet of another's residential property, unless such is being operated for property maintenance purposes.

(d) 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 thirty (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 (7) 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 thirty (30) square inches and shall be day-glow in color.

(e) No person shall operate an all-terrain vehicle:

(1) In a careless way as to endanger the person or property of another;

(2) While under the influence of alcohol or any controlled substances; or

(3) 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 eight (8) years of age.

(f) No operator of an all-terrain vehicle shall carry a passenger, except for agricultural purposes.

(g) For purposes of this Section, an "all-terrain vehicle" shall be defined as any motorized vehicle manufactured exclusively for off highway use which is fifty (50) inches or less in width, with an unladen weight of six hundred (600) pounds or less, traveling on three (3) or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control.

(h) A violation of this section shall be a class C misdemeanor.

Section 13-73.5. Following Too Closely. [Ord. No. 1162 §1, 5-2-1995]

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. This section shall in no manner affect Section 304.044 (RSMo.) relating to distance between trucks traveling on the highway.

Section 13-73.6. Legends Parkway — Utilizing Bike Path for Vehicle Travel Prohibited. [Ord. No. 1442 §3, 2-15-2000]

Legends Parkway shall be considered to have one (1) traffic lane for each direction of travel, and it shall be unlawful to utilize the bike path which parallels each traffic lane for purposes of passing another vehicle.

Section 13-73.7. Regulation of Motor Vehicle Weight Limits Within Portions of the Legends Development — Trip Permits. [Ord. No. 1500 §1, 12-19-2000; Ord. No. 1609 §§1, 3, 5-21-2002; Ord. No. 1698 §1, 6-3-2003]

(a) Motor vehicles or trailers, including the weight of any load, weighing in excess of sixty thousand (60,000) pounds actual weight are hereby prohibited from traveling or parking on the following roadways, unless a valid trip permit has been issued by the City:

Legends Parkway
Legends View Drive
Meramec View Drive
Southern Hills Court
Southern Hills Drive
Spring Cove Court
Stone Spring Court
Stone Spring Drive
Vista Glen Court
Vista Hills Court

The City of Eureka or its agent shall be authorized to use any means available, including any weighing device or scale, to determine the actual weight of any motor vehicle or trailer traveling or parking on the aforementioned streets. The costs incurred for such weighing operations, including personnel costs, shall be documented by the City. Any person upon conviction of a violation of the provisions of this Section shall pay a recoupment fee to the City for the costs actually incurred by the City.

(b) Any person violating this provision shall upon conviction be punished by a fine of two hundred fifty dollars ($250.00) for the first (1st) offense. Second (2nd) and subsequent violations of this provision shall upon conviction be punished by a fine of not less than five hundred dollars ($500.00).

(c) *Valid Trip Permits.* Any vehicle or trailer in excess of sixty thousand (60,000) pounds shall obtain a trip permit from the City prior to traveling or parking on any portion of Legends Parkway or the other private roads listed herein above in Subsection (a). Any such application for a trip permit shall include a deposit in the sum of one hundred dollars ($100.00), in addition to any other fees required, which shall be deposited into an interest-bearing account to be held by the City for use by the Legends Homeowners' Association for actual repairs to Legends Parkway.

Section 13-73.8. Passing Regulations; Violation, Penalties. [Ord. No. 1713 §1, 8-19-2003]

(a) The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations and exceptions hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; and

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of such driver's vehicle until completely passed by the overtaking vehicle.

(b) The driver of a motor vehicle may overtake and pass to the right of another vehicle only under the following conditions:

(1) When the vehicle overtaken is making or about to make a left turn;

(2) Upon a City street with unobstructed pavement of sufficient width for two (2) or more lines of vehicles in each direction;

(3) Upon a one-way street;

(4) Upon any highway within of the City with unobstructed pavement of sufficient width and clearly marked for four (4) or more lines of traffic. The driver of a motor vehicle may overtake and pass another vehicle upon the right only under the foregoing conditions when such movement may be made in safety. In no event shall such movement be made by driving off the paved

or main traveled portion of the roadway. The provisions of this Subsection shall not relieve the driver of a slow-moving vehicle from the duty to drive as closely as practicable to the right-hand edge of the roadway.

(c) Except when a roadway has been divided into three (3) traffic lanes, no vehicle shall be driven to the left side of the centerline of a highway or public road in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

(d) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

(1) When approaching the crest of a grade or upon a curve of the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct, tunnel or when approaching within one hundred (100) feet of or at any intersection or railroad grade crossing.

(e) Violation of this Section shall be deemed an infraction as provided in Section 1-7 of the Municipal Code of the City of Eureka.

Section 13-73.9. Distance at Which Vehicle Must Follow, Penalty. [Ord. No. 1713 §2, 8-19-2003]

(a) 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 Section 304.044, RSMo., relating to distance between trucks traveling on the highway.

(b) Violation of this Section shall be deemed an infraction as provided in Section 1-7 of the Municipal Code of the City of Eureka.

Section 13-73.10. Text Messaging and Using Hand-Held Mobile Devices While Operating Motor Vehicle. [Ord. No. 2293 §1, 2-18-2014]

(a) Except as otherwise provided in this section, no person twenty-one (21) years of age or younger operating a moving motor vehicle upon the highways of this State shall, by means of a hand-held electronic wireless communications device, send, read, or write a text message or electronic message.

(b) Except as otherwise provided in this section, no person shall operate a commercial motor vehicle while using a hand-held mobile telephone.

(c) Except as otherwise provided in this section, no person shall operate a commercial motor vehicle while using a wireless communications device to send, read, or write a text message or electronic message.

(d) The provisions of Subsections (a) through (c) of this Section shall not apply to a person operating:

(1) An authorized emergency vehicle; or

(2) A moving motor vehicle while using a hand-held electronic wireless communications device to:

a. Report illegal activity;

b. Summon medical or other emergency help;

c. Prevent injury to a person or property; or

d. Relay information between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle.

(e) Nothing in this Section shall be construed or interpreted as prohibiting a person from making or taking part in a telephone call, by means of a hand-held electronic wireless communications device, while operating a noncommercial motor vehicle upon the highways of this State.

(f) As used in this Section, "electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between hand-held electronic wireless communication devices. "Electronic message" includes, but is not limited to, electronic mail, a text message, an instant message or a command or request to access an Internet site.

(g) As used in this Section, "hand-held electronic wireless communications device" includes any hand-held cellular phone, Palm Pilot, Blackberry, iPhone, Android or other mobile electronic device used to communicate verbally or by text or electronic messaging, but shall not apply to any device that is permanently embedded into the architecture and design of the motor vehicle.

(h) As used in this Section, "making or taking part in a telephone call" means listening to or engaging in verbal communication through a hand-held electronic wireless communication device.

(i) As used in this Section, "send, read, or write a text message or electronic message" means using a hand-held electronic wireless telecommunications device to manually communicate with any person by using an electronic message. Sending, reading, or writing a text message or electronic message does not include reading, selecting, or entering a phone number or name into a hand-held electronic wireless communications device for the purpose of making a telephone call.

(j) The provisions of this section shall not apply to:

(1) The operator of a vehicle that is lawfully parked or stopped;

(2) Any of the following while in the performance of their official duties: a law enforcement officer; a member of a fire department; or the operator of a public or private ambulance;

(3) The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system;

(4) The use of voice-operated technology;

(5) The use of two-way radio transmitters or receivers by a licensee of the Federal Communications Commission in the Amateur Radio Service.

ARTICLE X
Pedestrians' Rights and Duties

Section 13-74. Pedestrians Subject to Traffic Control Devices. [Ord. No. 252, §1]

Pedestrians shall be subject to traffic control signals as heretofore declared in sections 13-27 and 13-28, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this article.

Section 13-75. Pedestrians' Right-of-Way in Crosswalks. [Ord. No. 252, §1]

(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 subsection (b) of section 13-78.

(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.

Section 13-76. Pedestrians to Use Right Half of Crosswalks. [Ord. No. 252, §1]

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

Section 13-77. Crossing at Right Angles. [Ord. No. 252, §1]

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.

Section 13-78. When Pedestrian shall Yield. [Ord. No. 252, §1]

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) The foregoing rules in this section have no application under the conditions stated in section 13-79 when pedestrians are prohibited from crossing at certain designated places.

Section 13-79. Prohibited Crossing. [Ord. No. 252, §1]

(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.

Section 13-80. Obedience of Pedestrians to Bridge and Railroad Signals. [Ord. No. 252, §1]

(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.

Section 13-81. Pedestrians Walking Along Roadways. [Ord. No. 252, §1]

(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.

Section 13-82. Drivers to Exercise Highest Degree of Care. [Ord. No. 252, §1]

Notwithstanding the foregoing provisions of sections 13-27 to 13-82, 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.

ARTICLE XI
Method of Parking

Section 13-83. Standing or Parking Close to Curb. [Ord. No. 252, §1]

Except as otherwise provided in this article, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen inches of the right-hand curb.

Section 13-84. Signs or Markings Indicating Angle Parking Generally. [Ord. No. 252, §1]

(a) The board of aldermen shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets but such angle parking shall not be indicated upon any federal-aid or state highway within the city unless the state highway commission has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(b) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street or upon any streetcar tracks.

Section 13-85. Obedience to Angle Parking Signs or Markers. [Ord. No. 252, §1]

On those streets which have been signed or marked by the board of aldermen for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

Section 13-86. Permits for Loading or Unloading at an Angle to the Curb. [Ord. No. 252, §1]

(a) The board of aldermen is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein.

(b) It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

Section 13-87. Lamps on Parked Vehicles. [Ord. No. 252, §1]

(a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred feet upon such street or highway no lights need be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such highway, such vehicle so parked or stopped shall be equipped with one (1) or more lamps meeting the following requirements: At least one (1) lamp shall display a white or amber light visible from a distance of five hundred (500) feet to the front of the vehicle, and the same lamp or at least one (1) other lamp shall display a red light visible from a distance of five hundred (500) feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one (1) lamp or combination of lamps meeting the requirements of this Section is installed as near as practicable to the side of the vehicle which is closer to passing traffic. The foregoing provisions shall not apply to a motor driven cycle.

(c) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

ARTICLE XII
Stopping, Standing or Parking Prohibited in Specified Places

Section 13-88. Generally. [Ord. No. 252 §1; Ord. No. 370 §3; Ord. No. 1281 §1, 4-15-1997]

(a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a Police Officer or official traffic control device, no person shall:

(1) Stop, stand or park a vehicle:

a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

b. On a sidewalk.

c. Within an intersection.

d. On a crosswalk.

e. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the Board of Aldermen indicates a different length by signs or markings.

f. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.

g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel.

h. On any railroad tracks.

i. At any place where official signs prohibit stopping.

(2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

a. In front of a public or private driveway.

b. Within fifteen (15) feet of a fire hydrant.

c. Within twenty (20) feet of a crosswalk at an intersection.

d. Within thirty (30) feet upon the approach to any flashing signal, stop sign or traffic control signal located at the side of a roadway.

e. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of such entrance, when properly signposted.

f. At any place where official signs prohibit standing.

(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;

a. Within fifty (50) feet of the nearest rail of a railroad crossing.

b. At any place where official signs prohibit parking.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

Section 13-89. Parking Not to Obstruct Traffic. [Ord. No. 252 §1]

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic.

Section 13-90. Parking in Alleys. [Ord. No. 252 §1]

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.

Section 13-91. Parking for Certain Purposes Prohibited. [Ord. No. 252 §1]

No person shall park a vehicle upon any roadway for the principal purpose of:

(a) Displaying such vehicle for sale.

(b) Repairing such vehicle except repairs necessitated by an emergency.

Section 13-91.1. Overnight Parking of Trailers Prohibited. [Ord. No. 953 §1, 5-1-1990]

No person shall park a trailer overnight upon any roadway or street within the City of Eureka.

TRAILER: Any vehicle without motive power designed for carrying passengers or property on its own structure and for being drawn by a vehicle, except those running exclusively on tracks, but including a semi-trailer or vehicle of the trailer type, so designed and used in connection with any vehicle that a considerable part of its weight rests upon and is carried by the towing vehicle.

Section 13-91.2. Overnight Parking of Boats or Trailers Prohibited. [Ord. No. 954 §1, 5-1-1990]

No person shall park a boat or trailer overnight upon any roadway or street or between the building set-back lines and the street unless said boat or trailer is parked on a driveway.

Section 13-91.3. Parking of Recreational Vehicles. [Ord. No. 1171 §1, 6-6-1995]

It shall be unlawful for any person to park a recreational vehicle upon any roadway within the City for a period exceeding twenty-four (24) hours, except in a documentable emergency.

For purposes of this Section, a recreational vehicle is as defined in the Revised Statutes of Missouri, as amended, and as regulated and licensed by the Missouri Motor Vehicle Bureau.

Section 13-92. Parking Adjacent to Schools. [Ord. No. 252, §1]

(a) The board of aldermen is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in its opinion, interfere with traffic or create a hazardous situation.

(b) When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place.

Section 13-93. Parking Prohibited on Narrow Streets. [Ord. No. 252 §1]

(a) The board of aldermen is authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed thirty feet.

(b) When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

Section 13-93.1. Parking Prohibited Within Ten Feet of Mailbox. [Ord. No. 826 §1]

No person shall park any vehicle within ten feet of either side of a mailbox within the City of Eureka, except therefrom such parking on Sundays and legal Holidays.

Section 13-94. Standing or Parking on One-Way Streets. [Ord. No. 252, §1]

The board of aldermen is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon such left-hand side in violation of any such sign.

Section 13-95. Standing or Parking on One-Way Roadways. [Ord. No. 252, §1]

In the event a highway includes two or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking. The board of aldermen is authorized to determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.

Section 13-96. No Stopping, Standing or Parking Near Hazardous or Congested Places. [Ord. No. 252, §1]

(a) The board of aldermen is hereby authorized to determine and designate by proper signs places not exceeding one hundred feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(b) When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand or park a vehicle in any such designated place.

Section 13-96.1. Commercial Vehicles Weighing or Licensed to Haul in Excess of Twelve Thousand Pounds, Tractor-Trailers, Etc. [Ord. No. 359 §1; Ord. No. 706 §1; Ord. No. 712 §1]

The parking of commercial vehicles having a gross weight in excess of twelve thousand pounds or licensed to haul in excess of twelve thousand pounds, or any tractor or tractor-trailer truck unit, is prohibited in all residential zones and on all streets, thoroughfares, alleys and rights-of-way within the city limits.

Section 13-96.2. Fire Lanes. [Ord. No. 657 §1]

The fire marshal, with the approval of the board of aldermen, is authorized to designate fire lane areas on such portions of public or private streets, alleys, roadways or any area accessible to vehicles as the fire marshal may deem necessary to provide unobstructed

access to the fire department and other emergency vehicles. It shall be unlawful for any person to stop, park or leave a vehicle in or upon, or to obstruct in any manner, any fire lane so designated by the fire marshal.

Fire lanes legally designated by the fire marshal shall be posted with appropriate signs or markings as required by the fire marshal and approved by the board of aldermen so that the public will be aware of the existence of such fire lanes. In the case of any fire lane established on private property, the owner thereof shall provide such signs or markings at his own expense, and in cases of fire lanes designated on public property, the director of public works shall provide such signs or markings at the expense of the city.

Section 13-96.3. Roadway Parking Time Limit. [Ord. No. 2230 §1, 7-17-2012]

No person shall park a vehicle along roadway for a continuous twenty-four (24) hour period for more than seven (7) consecutive days.

Section 13-96.4. Compact Motor Vehicle Parking. [Ord. No. 2296 §1, 4-1-2014]

(a) Compact motor vehicle parking spaces may be established by the Board of Aldermen as deemed necessary in the interest of traffic or public safety.

(b) Compact motor vehicle parking spaces shall be designated by a combination of striping and signage.

(c) An individual will be deemed to be in violation of this section if his or her vehicle projects beyond the established compact motor vehicle parking space striping in any direction.

ARTICLE XIII
Stopping for Loading or Unloading Only

Section 13-97. Board of Aldermen to Designate Curb Loading Zones. [Ord. No. 252 §1]

The board of aldermen is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.

Section 13-98. Permits for Curb Loading Zones. [Ord. No. 252 §1]

The board of aldermen shall not designate or sign any curb loading zone upon special request of any person unless such person makes application for a permit for such zone and for two signs to indicate the ends of each such zone. The board of aldermen upon granting a permit and issuing such signs shall collect from the applicant and deposit in the city treasury a service fee of ten dollars per year or fraction thereof and may by general regulations impose conditions upon the use of such signs and for reimbursement of the city for the value thereof in the event of their loss or damage and their return in the event of misuse or upon expiration of permit. Every such permit shall expire at the end of one year.

Section 13-99. Standing in Passenger Curb Loading Zone. [Ord. No. 252 §1]

No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three minutes.

Section 13-100. Standing in Freight Curb Loading Zones. [Ord. No. 252 §1]

No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect.

Section 13-101. Board of Aldermen to Designate Public Carrier Stops and Stands. [Ord. No. 252, §1]

The board of aldermen is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common carrier motor vehicles on such public streets in such places and in such number as it shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs.

Section 13-102. Stopping, Standing and Parking of Buses and Taxicabs Regulated. [Ord. No. 252, §1]

(a) The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.

(b) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

Section 13-103. Restricted use of Bus and Taxicab Stands. [Ord. No. 252, §1]

No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when any such stop or stand has been officially designated and

appropriately signed; except, that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers, when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

ARTICLE XIV
Stopping, Standing or Parking Restricted or Prohibited on Certain Streets

Section 13-104. Applicability of Chapter. [Ord. No. 252 §1]

The provisions of this chapter prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

Section 13-105. Regulations not Exclusive. [Ord. No. 252, §1]

The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

Section 13-106. Parking Prohibited at All Times on Certain Streets. [Ord. No. 252 §1; Ord. No. 263 §1; Ord. No. 300 §3; Ord. No. 316 §1; Ord. No. 318 §1; Ord. No. 347 §1; Ord. No. 455 §1; Ord. No. 492 §1; Ord. No. 515 §1; Ord. No. 516 §§1,2; Ord. No. 560 §1; Ord. No. 584 §§1 to 3; Ord. No. 704 §1; Ord. No. 711 §1; Ord. No. 746 §1; Ord. No. 750 §1; Ord. No. 817 §1; Ord. No. 879 §1.; Ord. No. 949 §1, 3-20-1990; Ord. No. 979 §1, 12-18-1990; Ord. No. 1039 §8, 11-17-1992; Ord. No. 1054 §1, 6-1-1993; Ord. No. 1115 §1, 8-2-1994; Ord. No. 1222 §1, 4-16-1996; Ord. No. 1269 §§1 — 2, 12-3-1996; Ord. No. 1281 §2, 4-15-1997; Ord. No. 1295 §1, 7-1-1997; Ord. No. 1384 §1, 11-17-1998; Ord. No. 1455 §4, 6-6-2000; Ord. No. 1493 §3, 11-7-2000; Ord. No. 1560 §1, 10-2-2001; Ord. No. 1567 §§1 — 2, 11-6-2001; Ord. No. 1585 §1, 1-15-2002; Ord. No. 1606 §1, 4-16-2002; Ord. No. 1660 §1, 12-3-2002; Ord. No. 1689 §1, 5-6-2003; Ord. No. 1702 §1, 6-17-2003; Ord. No. 1831 §1, 5-3-2005; Ord. No. 1869 §1, 11-1-2005; Ord. No. 1880 §1, 12-20-2005; Ord. No. 1901 §1, 4-4-2006; Ord. No. 1942 §2, 9-19-2006; Ord. No. 1947 §2, 11-21-2006; Ord. No. 1963 §§1 — 2, 3-20-2007; Ord. No. 2045 §1, 6-3-2008; Ord. No. 2046 §1, 6-17-2008; Ord. No. 2060 §6, 9-2-2008]

The City is hereby authorized to regulate streets or sections thereof throughout the City where no person shall park a vehicle at any time, which shall be designated by signage as authorized and erected or directed to be erected by the City.

Section 13-107. Parking Prohibited During Certain Hours on Certain Streets. [Ord. No. 252 §1; Ord. No. 317 §1; Ord. No. 328 §1; Ord. No. 425 §1; Ord. No. 534 §§1,2; Ord. No. 839 §1; Ord. No. 1039 §9, 11-17-1992; Ord. No. 1420 §2, 9-21-1999; Ord. No. 1434 §1, 11-16-1999; Ord. No. 1662 §1, 12-3-2002; Ord. No. 1842 §1, 8-2-2005; Ord. No. 1942 §1, 9-19-2006; Ord. No. 2060 §7, 9-2-2008]

The City is hereby authorized to regulate streets or sections thereof throughout the City where no person shall park a vehicle between or in excess of specific hours (except

Sundays and public holidays), which shall be designated by signage as authorized and erected or directed to be erected by the City.

Section 13-108. Stopping, Standing or Parking Prohibited During Certain Hours on Certain Streets. [Ord. No. 252 §1]

When signs are erected in each block giving notice thereof, no person shall stop, stand or park a vehicle between the hours specified by ordinance of any day except Sundays and public holidays within the district or upon any of the streets described by ordinance.

Section 13-109. Parking Signs Required. [Ord. No. 252, §1]

Whenever by this chapter or any ordinance of the city a parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the board of aldermen to erect appropriate signs giving notice thereof and no such regulations shall be effective unless such signs are erected and in place at the time of any alleged offense.

Section 13-110. Commercial Vehicles Prohibited from Using Certain Streets. [Ord. No. 252, §1]

In cases where an equally direct and convenient alternate route is provided, an ordinance may describe and signs may be erected giving notice thereof, that no persons shall operate any commercial vehicle upon streets or parts of streets so described, except those commercial vehicles making deliveries thereon.

Section 13-110.1. Parking Places for Physically Disabled Persons.

That section 13-110.1 be added to the Code of the City of Eureka to read as follows:

Section 13-110.1.1. Definitions.

For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

(a) PHYSICALLY DISABLED — Any natural person who has permanently lost the use of one or both legs or one or both arms or any combination thereof, any person who is so severely disabled as to be unable to move freely without the aid of crutches, braces, walker, canes, leg prosthesis, or wheelchair, or any person who suffers from lung disease to such an extent that his forced expiratory volume in one second (FEV), when measured by spirometry is less than one liter or his arterial oxygen tension (Po2) is less than 60 mm/hg on room air at rest or any person who has a cardiovascular disease so severe as to measure between 3-4 on the New York heart classification scale.

(b) OWNER OR JOINT OWNERS OF MOTOR VEHICLES — Residents of the State of Missouri, at least one of whom is physically disabled.

(c) HANDICAPPED PARKING SPACE — Any space designated as reserved for handicapped persons by means of a sign upon which is inscribed the international

symbol of accessibility and/or the words "Handicapped Parking" whether upon public or private property open to public use.

(d) VEHICLES AUTHORIZED TO BE PARKED IN HANDICAPPED PARKING SPACE — Those vehicles with one of the following:

(1) A state of Missouri or other state handicapped license plate; or

(2) A municipally issued handicapped identification card displayed in the rear window in the upper left-hand corner of the vehicle, or a handicapped parking sticker from a governmental source when such vehicle is being utilized by a physically disabled person.

(3) A driver who is obviously physically handicapped as defined above.

(4) Any motor vehicle designed and operated for transporting physically disabled persons.

(e) HANDICAPPED PARKING IDENTIFICATION CARD OR STICKER — A card issued by the City of Eureka Clerk to persons determined to be eligible to park in spaces designated as "Handicapped Parking Space".

(f) VEHICLE — Any non-commercial vehicle whose gross weight does not exceed 12,000 pounds.

Section 13-110.1.2. Issuance of Card by City Clerk.

The city clerk of the City of Eureka shall provide applications for persons requesting Handicapped Parking Identification Cards or stickers, and upon receipt of the completed application and accompanying letter from the applicant's physician shall issue the Handicapped Parking Identification Card or Sticker. Persons applying in person and who are obviously physically handicapped, shall not be required to submit a letter from their physician. Disabled persons living both within and outside the City of Eureka may be issued the Handicapped Parking Identification Card or Sticker.

Section 13-110.1.3. Prohibited Parking.

It shall be unlawful for any person to park or stand a vehicle or to own a vehicle which is parked in any "Handicapped Parking Space", unless said person is an owner or joint owner of a motor vehicle transporting a physically disabled person and such vehicle is one authorized to be parked in a "Handicapped Parking Space".

Section 13-110.1.4. Penalties. [Ord. No. 744, §1]

Any person violating any provision of this section shall be punished as provided in section 13-111 of this Code.

ARTICLE XV
Traffic Violations Bureau

Section 13-111. Establishments; Schedule of Fines Required. [Ord. No. 252, §3]

The municipal court shall establish a traffic violations bureau to assist the court with the clerical work of traffic cases. The bureau shall be in charge of such person and shall be open at such hours as the municipal judge may designate.

The judge of the municipal court who hears traffic cases shall designate the specified offenses under this chapter or under the traffic ordinances of the city and the state traffic laws in accordance with Supreme Court Rule No. 37.50 in respect to which payments of fines may be accepted by the traffic violations bureau in satisfaction thereof, and shall specify suitable schedules of the amount of such fines for first, second and subsequent offenses; provided, that such fines are within the limits declared by law or ordinance, and shall further specify what number of such offenses shall require appearance before the court.

Section 13-112. When Persons Charged May Elect to Appear at Bureau or Before Magistrate. [Ord. No. 252, §1]

(a) Any person charged with an offense for which payment of a fine may be made to the traffic violations bureau shall have the option of paying such fine within the time specified in the notice of arrest at the traffic violations bureau upon entering a plea of guilty and upon waiving appearance in court; or may have the option of depositing required lawful bail, and upon a plea of not guilty shall be entitled to a trial as authorized by law.

(b) The payment of a fine to the bureau shall be deemed an acknowledgment of conviction of the alleged offense, and the bureau, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof.

Section 13-113. Hours of Operation; Persons to do Clerical and Collection Work. [Ord. No. 1166 §§1 — 2, 5-16-1995[2]]

The traffic bureau shall be at the City Hall, open to the public from 9:00 A.M. until 5:00 P.M. Monday thru Friday, except holidays and during election days when City Hall is a polling place.

The city clerk and the assistant city clerk shall be those who may handle the clerical work and collection work for this traffic bureau.

Any traffic ticket which has not been paid after five days after issuance excluding holidays, shall be referred to the municipal court by the traffic bureau.

Section 13-114. Duties of Traffic Violations Bureau. [Ord. No. 252, §1]

The following duties are hereby imposed upon the traffic violations bureau in reference to traffic offenses:

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[2]. **Editor's Note — Ord. No. 1166 adopted on 5-16-1995 repealed Subsections (1) and (2) of §13-113. Ord. No. 1166 §3, 5-16-1995 amended 14-26 subsection (g) and (h) to take over these provisions.**

(a) It shall accept designated fines, issue receipts and represent in court such violators as are permitted and desire to plead guilty, waive court appearance and give power of attorney.

(b) It shall receive and issue receipts for cash bail from the persons who must or wish to be heard in court, enter the time of their appearance on the court docket and notify the arresting officer and witnesses, if any, to be present.

Section 13-115. Traffic Violations Bureau to Keep Records. [Ord. No. 252, §1]

The traffic violations bureau shall keep records and submit summarized monthly reports to the municipal court of all notices issued and arrests made for violations of the traffic laws and ordinances in the city and of all the fines collected by the traffic violations bureau or the court, and of the final disposition or present status of every case of violation of the provisions of such laws and ordinances. Such records shall be so maintained as to show all types of violations and totals of each. Such records shall be public records.

Section 13-116. Additional Duties of Traffic Violations Bureau. [Ord. No. 252, §1]

The traffic violations bureau shall follow such procedure as may be prescribed by the traffic ordinances of the city or as may be required by any laws of this state.

ARTICLE XVI
Procedure on Arrest

Section 13-117. Forms and Records of Traffic Citations and Arrests. [Ord. No. 252, §1]

(a) The municipal court shall provide books containing uniform traffic tickets as prescribed by Supreme Court Rule No. 37.46. Such books shall include serially numbered sets of citations in quadruplicate in the form prescribed by supreme court rule.

(b) The municipal court shall issue such books to the chief of police or his duly authorized agent and shall maintain a record of every book so issued and shall require a written receipt for every such book.

(c) The chief of police shall be responsible for the issuance of such books to individual members of the police department. The chief of police shall require a written receipt for every book so issued and shall maintain a record of every such book and each set of citations contained therein.

Section 13-118. Procedure of Police Officers. [Ord. No. 252, §1]

Except when authorized or directed under state law to immediately take a person before the judge of the municipal court for the violation of any traffic laws, a police officer who halts a person for such violation other than for the purpose of giving him a warning or warning notice and does not take such person into custody under arrest, shall issue to him a uniform traffic ticket which shall be proceeded upon in accordance with Supreme Court Rule No. 37.

Section 13-119. Uniform Traffic Ticket to be Issued When Vehicle Illegally Parked or Stopped. [Ord. No. 252 §1; Ord. No. 1669 §4, 1-21-2003; Ord. No. 1744 §2, 2-3-2004]

Whenever any motor vehicle without driver is found parked or stopped in violation of any of the restrictions imposed by ordinance of the City or by State law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user and shall conspicuously affix to such vehicle a uniform traffic ticket or other citation for the driver to answer to the charge against him within seven (7) days during the hours and at a place specified in the traffic ticket.

Section 13-120. Warning of Arrest Sent Upon Failure to Appear. [Ord. No. 252, §1]

If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not appear in response to a uniform traffic ticket affixed to such motor vehicle within a period of five days, the traffic violations bureau shall send to the owner of the motor vehicle to which the traffic ticket was affixed a letter informing him of the violation and warning him that in the event such letter is disregarded for a period of five days a warrant of arrest will be issued.

Section 13-121. Police may Remove Vehicle. [Ord. No. 252, §1]

(a) Members of the police department are authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the city under the circumstances hereinafter enumerated:

    (1) When any vehicle is left unattended upon any bridge, viaduct or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic.

    (2) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide its custody or removal.

    (3) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

(b) Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

(c) Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the

vehicle is not returned to the owner within a period of three days, then and in that event the officer shall immediately send or cause to be sent a written report of such removal by mail to the state department whose duty it is to register motor vehicles, and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal and the name of the garage or place where the vehicle is stored.

Section 13-122. Liability of Officer, Etc., Removing Vehicle; Charges for Removal and Storage of Vehicle; Sale of Unredeemed Vehicle. [Ord. No. 159 §§2-3; Ord. No. 601 §§1-2; Ord. No. 1095 §2, 4-19-1994]

(a) Any member of the police department, upon the discovery of any vehicle illegally parked or abandoned as provided in any traffic control ordinance of the city, may take such vehicle into his custody and may cause the same to be removed and stored in a proper place. No liability is attached to the officer ordering the removal and storage of such vehicle or for damage caused thereto or resulting therefrom, and any person towing or storing such vehicle at the request of any member of the police department shall have a lien on such vehicle for the towing and storage charges incurred.

(b) Guidelines established in section 13-146 shall be used for disposal of vehicles impounded and not redeemed.

ARTICLE XVII
(Reserved)
[Repealed/Ord. No. 847, §1]

Section 13-123. (Reserved) [Repealed by Ordinance No. 847, §1]

Section 13-124. through Section 13-134. (Reserved) [Repealed by Ordinance No. 339, §1]

ARTICLE XVIII
Additional Regulations, Violations and Penalties

Section 13-135. Manner of Operation. [Ord. No. 315, §1; Ord. No. 414, §1]

Every person operating a motor vehicle on, upon or over any public street or thoroughfare within the city shall drive and operate the same in a careful and prudent manner and in the exercise of the highest degree of care, and at a rate of speed so as not to endanger the property of another, or the life or limb of any person.

Section 13-136. Driving While Intoxicated; Cost Recovered. [Ord. No. 1036 §§1 — 2, 10-6-1992; Ord. No. 1138 §§1-2, 11-15-1994; Ord. No. 1552 §§1-4, 9-4-2001]

(a) It shall be unlawful for any person to operate a motor vehicle while in an intoxicated condition or while under the influence of intoxicants or drugs.

(b) *Definitions.*

(1) As used in this chapter, the term *"drive"*, *"driving"*, *"operates"* or *"operating"* means physically driving or operating or being in actual physical control of a motor vehicle.

(a) As used in this chapter, a person is in an *"intoxicated condition"* when he is under the influence of alcohol, a controlled substance, or drug, or combination thereof.

(b) As used in this chapter, the term *"law and enforcement officer"* or *"arresting officer"* includes the definition of law enforcement officer in subdivision (17) of Section 556.061, RSMo., and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the State of Missouri.

(2) *Driving while intoxicated.* A person commits the crime of *"driving while intoxicated"* if he operates a motor vehicle while in an intoxicated or drugged condition.

(a) Driving while intoxicated is for the first offense, a class B misdemeanor. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two (2) years.

(3) *Driving with excessive blood alcohol content.* A person commits the crime of *"driving with excessive blood alcohol content"* if he operates a motor vehicle in this State with eight-hundredths of one percent (.08%) or more by weight of alcohol in his blood.

(a) As used in this chapter, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred (100) milliliters of blood and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this Section, the test shall be conducted in accordance with the provisions of Sections 577.020 to 577.041, RSMo.

(b) For the first offense, driving with excessive blood alcohol content is a Class B Misdemeanor.

(4) *Chemical tests for alcohol content of blood — consent implied — administered, when, how.* Any person who operates a motor vehicle upon the public highways of this State or municipal roadways of this City shall be deemed to have given consent to, subject to the provisions of Sections 577.020 to 577.041, RSMo., a chemical test or tests of his breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of his blood if arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was driving a motor vehicle while in an intoxicated or drugged condition. The

test shall be administered at the direction of the arresting law enforcement officer whenever the person has been arrested for the offense.

(a) The implied consent to submit to the chemical tests listed in Subsection (4) above of this Section shall be limited to not more than two (2) such tests arising from the same arrest, incident or charge.

(b) Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid under the provisions of Sections 577.020 to 577.041, RSMo., shall be performed according to methods approved by the State Division of Health by licensed medical personnel or by a person possessing a valid permit issued by the State Division of Health for this purpose.

(c) The State Division of Health shall approve satisfactory techniques, devices, equipment, or methods to be considered valid under the provisions of Sections 577.020 to 577.041, RSMo., and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the State Division of Health.

(d) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his own choosing and at his expense administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer.

(e) Upon the request of the person who is tested, full information concerning the test shall be made available to him.

(5) *Chemical tests, how made, by whom, when-person tested to receive certain information, when.* A licensed physician, registered nurse, or trained medical technician at the place of his employment, acting at the request and direction of the law enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of the blood, unless such medical personnel, in his good faith medical judgment, believes such procedure would endanger the life or health of the person in custody. Blood may be withdrawn only by such medical personnel, but such restriction shall not apply to the taking of a breath test, a saliva specimen, or a urine specimen. In withdrawing blood for the purpose of determining the alcohol content thereof, only a previously unused and sterile needle and sterile vessel shall be utilized and the withdrawal shall otherwise be in strict accord with accepted medical practices. A non-alcoholic antiseptic shall be used for cleansing the skin prior to venipuncture. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to him.

(6) *Persons administering tests not liable, when.* No person who administers any test pursuant to the provisions of Sections 577.020 to 577.041, RSMo., upon the request of a law enforcement officer, no hospital in or with which such person is employed or is otherwise associated or in which such test is administered, and no other person, firm, or corporation by whom or with which such person is employed or is in any way associated, shall be civilly liable in damages to the person tested unless for gross negligence or by willful or wanton act or omission.

(7) *Inability of person to be tested to refuse, effect.* Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusing to take a test as provided in Sections 577.020 to 577.041, RSMo., shall be deemed not to have withdrawn the consent provided by Section 577.020, RSMo., and the test or tests may be administered.

(8) *Chemical tests, results admitted into evidence, when, effect of.* Upon the trial of any person for violation of any of the provisions of Sections 577.005, 577.008, 577.010, or 577.012, RSMo., or upon the trial of any criminal action or violations of County or municipal ordinances arising out of acts alleged to have been committed by any person while driving a motor vehicle while in an intoxicated condition, the amount of alcohol in the person's blood at the time of the act alleged as shown by any chemical analysis of the person's blood, breath, saliva or urine is admissible in evidence and the provisions of Subdivision (5) of Section 491.060, RSMo., shall not prevent the admissibility or introduction of such evidence if otherwise admissible. If there was eight-hundredths of one percent (.08%) or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.

(a) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred (100) milliliters of blood.

(b) The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was intoxicated.

(c) A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise to the presumption or to have the effect provided for in Subsection (1) of this Section, shall have been performed as provided in Sections 577.020 to 577.041, RSMo., and in accordance with methods and standards approved by the State Division of Health.

(d) Any charge alleging a violation of Sections 577.010 or 577.012, RSMo., or any County or municipal ordinance prohibiting driving while intoxicated or driving under the influence of alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood, saliva or urine performed in accordance with Sections 577.020 to 577.041, RSMo., and rules promulgated thereunder by the State Division of Health demonstrate that there was less than eight-hundredths

of one percent (.08%) of alcohol in the defendant's blood unless one (1) or more of the following considerations cause the court to find a dismissal unwarranted:

(1) There is evidence that the chemical analysis is unreliable as evidence of the defendant's intoxication at the time of the alleged violation due to the lapse of time between the alleged violation and the obtaining of the specimen;

(2) There is evidence that the defendant was under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol; or

(3) There is substantial evidence of intoxication from physical observations of witnesses or admissions of the defendant.

(9) *Arrest without warrant, lawful, when.* An arrest with a warrant by a law enforcement officer, including a uniformed member of the State Highway Patrol, for a violation of Section 577.010 or 577.012, RSMo., is lawful whenever the arresting officer has reasonable grounds to believe that the person to be arrested has violated the Section, whether or not the violation occurred in the presence of the arresting officer; provided, however, that any such arrest without warrant must be made within one and one-half (1½) hours after such claimed violation occurred.

(c) It shall be unlawful for any person to knowingly permit any person under the influence of intoxicating liquor or drugs to drive his or her motor vehicle.

(d) *Refusal to submit to chemical test — revocation of license-hearing.*

(1) If a person under arrest refuses upon the request of the arresting officer to submit to a chemical test, which request shall include the reasons of the officer for requesting the person to submit to a test and which also shall inform the person that his license may be revoked upon his refusal to take the test, then none shall be given. In this event, the arresting officer, if he so believes, shall make a sworn report to the Director of Revenue that he has reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated condition and that, on his request, refused to submit to the test. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one (1) year, or if the person arrested be a nonresident, his operating permit or privilege shall be revoked for one (1) year; or if the person is a resident without a license or permit to operate a motor vehicle in this State, an order shall be issued denying the person the issuance of a license or permit for a period of one (1) year.

(a) If a person's license has been revoked because of his refusal to submit to a chemical test, he may request a hearing before a court of record in the County in which he resides or in the County in which the arrest occurred. Upon his request the clerk of the court shall notify the

prosecuting attorney of the County and the prosecutor shall appear at the hearing on behalf of the arresting officer. At the hearing the judge shall determine only:

(1) Whether or not the person was arrested;

(2) Whether or not the arresting officer had reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated condition; and

(3) Whether or not the person refused to submit to the test.

(b) If the judge determines any issue not to be in the affirmative, he shall order the director to reinstate the license or permit to drive.

(c) Requests for review as herein provided shall go to the head of the docket of the court wherein filed.

(2) If a person, when requested to submit to any test, requests to speak to an attorney, he should be granted twenty (20) minutes in which to attempt to contact an attorney. If upon the completion of the twenty (20) minute period, the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event the arrest officer, if he so believes, shall make a sworn report to the Director of Revenue that he has reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated condition and that, on his request, refused to submit to the test.

(e) A law enforcement officer who arrests any person for a violation of this section or for a violation of any state or county ordinance prohibiting driving while intoxicated or a county or municipal alcohol related traffic offense, and in which the alcohol concentration in the person's blood or breath was eight-hundredths of one percent (.08%) or more by weight, shall forward to the Department of Revenue a verified report of all information relevant to the Department of Revenue, including information which adequately identifies the arrested person, a statement of the officer's grounds for belief that the person violated any ordinance prohibiting driving while intoxicated or a county or municipal alcohol related traffic offense, a report of the results of any chemical tests which were conducted, and a copy of the citation and complaint filed with the court. The report shall be made on forms supplied by the Department of Revenue or in a manner specified by regulations of the department.

(f) Whenever the chemical test results are available to a law enforcement officer while the arrested person is still in custody, and when the results show an alcohol concentration of eight-hundredths of one percent (.08%) or more by weight of alcohol in his blood, the officer, acting on behalf of the department, shall serve the notice of suspension or revocation of the Department of Revenue personally on the arrested person.

(g) When the law enforcement officer serves the notice of suspension or revocation, the officer shall take possession of any driver's license issued by the State of Missouri

which is held by the person. When the officer takes possession of a valid driver's license issued by the State of Missouri, the officer, acting on behalf of the Department of Revenue, shall issue a temporary permit which is valid for fifteen days after its date of issuance and shall also give the person arrested a notice which shall inform him of his rights and responsibilities under sections 302.500 to 302.540, RSMo. The notice shall be in such a form so that the arrested person may sign the original as evidence of his receipt thereof. The notice shall also contain a detachable form permitting the arrested person to request a hearing. Signing the hearing request form and mailing such request to the Department of Revenue shall constitute a formal application for hearing.

(h) A copy of the completed notice of suspension or revocation form, a copy of any completed temporary permit form, a copy of the Notice of Rights and Responsibilities given to the arrested person including any requests for hearing, and any driver's license taken into possession under this section shall be forwarded to the Department of Revenue by the officer along with the report as required in Subsection (d) hereof.

(i) Upon a plea of guilty (whether followed by sentence, parole or suspended imposition of sentence, or any combination thereof), finding of guilt or conviction for an offense violating the provisions of this section the court may, in addition to imposition of any penalties provided by law, order the person to reimburse the state or local law enforcement authorities for the costs associated with such an arrest. Such costs shall include the reasonable costs of making the arrest, including the cost of any chemical test made under this chapter to determine the alcohol or drug content of the person's blood, and the costs of processing, charging, booking, and holding such a person in custody. Law enforcement authorities may establish a schedule of such costs for submission to the court; however, the court may order the costs reduced if it determines that the costs are excessive. These fees shall be calculated as additional costs by the municipal court and shall be collected by the court in the same manner as other costs and fees are collected and remitted to the City Treasurer. The City Treasurer shall retain these fees in the city's General Fund.

Section 13-136.1. Persistent Offenders. [Ord. No. 1036 §3, 10-6-1992]

(a) For purposes of this section, unless the context clearly indicates otherwise the following words shall have the meanings set out below:

INTOXICATED RELATED TRAFFIC OFFENSE — Includes driving while intoxicated, driving with excessive blood alcohol content, or driving under the influence of alcohol or drugs in violation of state law or county or municipal ordinance, where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing. A violation for driving while intoxicated or a conviction or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in any court shall be treated as an intoxicated related traffic offense.

PERSISTENT OFFENDER — One who has pled guilty to or has been found guilty of two (2) or more intoxicated related traffic offenses committed at different times within ten (10) years of a previous intoxicated related traffic offense conviction; and

PRIOR OFFENDER — One who has pled guilty to or has been found guilty of an intoxicated related traffic offense within five (5) years of previous intoxicated related traffic offense conviction.

(b) Any person who pleads guilty or is found guilty of a violation of state law, county or municipal ordinance who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

(c) Any person who pleads guilty to or is found guilty of a violation of state law, county or municipal ordinance who is alleged and proved to be a persistent offender shall be guilty of a Class D felony.

(d) No court shall suspend the imposition of sentence as to a prior or persistent offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until he has served a minimum of forty-eight (48) consecutive hours of imprisonment.

(e) The court shall find the defendant to be a prior offender or persistent offender, if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior or persistent offender; and

(2) Evidence is introduced that established sufficient facts pled to warrant a finding beyond a reasonable doubt that the defendant is a prior offender or persistent offender; and

(3) The court makes findings and facts that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender or persistent offender.

(f) In a jury trial, the facts shall be pled and established prior to submission to the jury outside of its hearing. In a trial without a jury or upon a plea of guilty, the court may defer the proof and findings of such facts to a later time, but prior to sentencing.

(g) The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence at such hearings. The defendant may waive proof of the facts alleged.

(h) Nothing in this section shall prevent the use of presentence investigations or commitments.

(i) At the sentencing hearing both the city and the defendant shall be permitted to present additional information bearing on the issue of sentence. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

(j) The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders or persistent offenders.

(k) Evidence of prior conviction shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of conviction received by a search of the records of the Missouri Uniform Law Enforcement System maintained by the Missouri State Highway Patrol. After hearing the evidence, the court shall enter its findings thereon. A conviction of a violation for driving while intoxicated or a conviction or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in any court shall be treated as a prior conviction.

Section 13-136.2. Open Container While Driving. [Ord. No. 1036 §4, 10-6-1992; Ord. No. 1179 §§1-2, 6-20-1995]

(a) It shall be unlawful for any person to consume or possess any open alcoholic beverage while operating or riding in a motor vehicle upon the state or county highways, streets, roads, parking lots or other thoroughfare located within the City of Eureka.

(b) Any person found guilty of violating the provisions of this section is guilty of an infraction. Any infraction under this section shall be subject to a fine of not more than five hundred dollars ($500.00).

Section 13-136.3. Abuse and Lose. [Ord. No. 1036 §5, 10-6-1992]

(a) The court shall, upon the plea of guilty, conviction or finding of guilty, enter an order suspending or revoking the driving privileges of any person determined to have committed one of the following offenses and who, at the time said offense was committed, was under twenty-one (21) years of age:

(1) Any alcohol related traffic offense in violation of state law, county or municipal ordinance, where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing;

(2) Any offense in violation of state law, county or municipal ordinance, where the judge in the case was an attorney and the defendant was represented by or waived the right to an attorney in writing, involving the possession or use of alcohol, committed while operating a motor vehicle;

(3) Any offense involving possession or use of a controlled substance as defined in Chapter 195, RSMo. in violation of state law, county or municipal ordinance, where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing;

(4) Any offense involving the alteration, modification or misrepresentation of a license to operate a motor vehicle in violation of section 311.328, RSMo.;

(5) Any offense in violation of state law, county or municipal ordinance where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, involving the possession or use of alcohol for a second time; except that a determination of guilty or its equivalent shall have been made for the first offense and both offenses shall have been committed by the person when the person was under eighteen (18) years of age.

(b) The court shall require the surrender of any license to operate a motor vehicle then held by any person against whom a court has entered an order suspending or revoking driving privileges under Subsection (a) of this section.

(c) The court shall forward to the Director of Revenue the order of suspension or revocation of driving privileges and any licenses acquired, as required by Subsection (b) of this section.

(d) The period of suspension for a first (1st) offense under this section shall be ninety (90) days. Any second (2nd) or subsequent offense under this section shall result in revocation of the offender's driving privileges for one (1) year.

(e) The court shall enter an order, in addition to other orders authorized by law, requiring the completion of an alcohol related education program which meets or exceeds minimum standards established by Department of Mental Health, as part of the judgement entered in the case, for any person determined to have violated a state law, county or municipal ordinance involving the possession or use of alcohol and who at the time of said offense was under twenty-one (21) years of age when the person pleads guilty, is convicted or found guilty of such offense by the court.

Section 13-137. Leaving Scene of Accident Without Supplying Certain Information. [Ord. No. 315, §1; Ord. No. 414, §1]

No person operating or driving a vehicle, motor propelled or otherwise, upon any public street or thoroughfare, knowing that an injury has been caused to a person or damage has been caused to property as the result of any accident shall leave the place of such injury, damage or accident without stopping and giving his name, residence, including city and street number, motor vehicle license number and/or chauffeur's or operator's number, to the injured party or the owner or person in charge of such damaged property, or to a police officer, or if no police officer is in the vicinity thereof, then to the nearest police station or judicial officer.

Section 13-138. Operator's License and Plates Required; Exception. [Ord. No. 315, §1; Ord. No. 414, §1; Ord. No. 833, §1.; Ord. No. 1669 §1, 1-21-2003]

It shall be unlawful for any person to operate any motor vehicle upon any public street or thoroughfare within the limits of the city without having an operator's or chauffeur's license so to do, or to operate any motor vehicle while such license has been suspended.

(a) It shall be unlawful for any person to operate or park any motor vehicle upon any public street or thoroughfare without having the proper State license plates affixed thereto as issued for such vehicle.

(b) It shall be unlawful for any person to knowingly permit an unlicensed operator to drive his motor vehicle.

(c) The provisions of the first paragraph of this section shall not apply to farm tractors or other motor powered farm vehicles used in the vocation of farming.

(d) It shall be unlawful for any person to display or to permit to be displayed, or to have in his possession, any chauffeur's license or motor vehicle operator's license knowing the same to be fictitious or to have been cancelled, suspended, revoked or altered; to lend to or knowingly permit the use of by another any chauffeur's license or motor vehicle operator's license issued to the person so lending or permitting the use thereof; to display or to represent as one's own any chauffeur's license or motor vehicle operator's license not issued to the person so displaying the same, or fail or refuse to surrender to the Municipal Court of the City of Eureka any chauffeur's license or motor vehicle operator's license which has been suspended, cancelled or revoked, as provided by law; to authorize or consent to any motor vehicle owned by him or under his control to be driven by any person, when he has knowledge that such person has no legal right to do so, or for any person to drive any motor vehicle in violation of the provisions of section 13 of the Code of the City of Eureka; to employ as a chauffeur of a motor vehicle, with knowledge that such person has not complied with the provisions of section 13 of the Code of the City of Eureka, or whose license as a chauffeur has been revoked, or suspended, during the period of such suspension; or who fails to produce his or her license upon demand of any person or persons authorized to make such demand.

Section 13-138.1. Violation of Restricted License. [Ord. No. 829, §1]

It shall be unlawful for any person within the City of Eureka to operate a motor vehicle or motor cycle in any manner in violation of the restrictions imposed on a restricted license issued to said person.

Section 13-138.2. Motor Vehicle Inspection Required. [Ord. No. 837 §1; Ord. No. 1081 §2, 1-18-1994; Ord. No. 1669 §2, 1-21-2003]

It shall be unlawful for any person to operate or park a motor vehicle upon a public street or thoroughfare within the limits of the City without a current State inspection sticker, seal or other device from a duly authorized official inspection station displayed upon the motor vehicle as prescribed by State regulations, except new motor vehicles for which application for title and registration is submitted on or after August 28, 1992; a new motor vehicle never registered or titled in Missouri or any other State. Ownership of a new motor vehicle is transferred by a franchised dealer on a manufacturer's statement of origin. First (1st) annual renewal of the new motor vehicles that were titled and registered on or after August 28, 1992, vehicles as defined are exempt from a vehicle safety/emissions inspection.

Section 13-138.3. Proof of Motor Vehicle Financial Responsibility. [Ord. No. 838, §1.; Ord. No. 1669 §3, 1-21-2003]

It shall be unlawful for any person to operate or park any motor vehicle upon any public street or thoroughfare within the limits of the City without having proof of motor vehicle financial responsibility as prescribed in Chapter 300, RSMo., 1987.

Section 13-139. Stopping for School Bus; Signs and Signals on School Bus. [Ord. No. 315 §1; Ord. No. 414 §1]

(a) The driver of any motor vehicle upon any public thoroughfare within the limits of the city, upon meeting or overtaking in 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 such vehicle before reaching such school bus and shall not proceed until such school bus resumes motion, or until signaled by its driver or a police officer to proceed.

(b) Every bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words "SCHOOL BUS" in letters not less than eight inches in height. Each such bus shall also have lettered on the rear in plain and distinct type, "STOP WHILE BUS IS LOADING OR UNLOADING." Each school bus shall be equipped with a mechanical or electrical signaling device which will display a signal plainly visible from the front and rear thereof and indicating an intention to stop.

Section 13-140. Equipment — Lights. [Ord. No. 315 §1; Ord. No. 414 §1; Ord. No. 1556 §1, 9-4-2001]

(a) No person shall drive, operate or put in motion any vehicle or combination of vehicles, motor powered or otherwise, on, over or upon any public thoroughfare within the limits of the City during the times when lighted lamps are required, unless such vehicle or vehicles display lighted lamps or illuminating devices as required in this Section. No person shall use on any vehicle any 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) "When lighted lamps are required" means at any time from one-half (½) hour after sunset to one-half (½) hour before sunrise, and at any other time when there is not sufficient natural light to render clearly discernible persons, objects or vehicles on the highway at a distance of two hundred (200) feet.

(c) Every motor vehicle other than a motorcycle or similar device shall be equipped with not less than two (2) approved headlamps mounted at the same level, with at least one (1) thereof on each side of the front of the vehicle. Motorcycles or similar conveyances shall be equipped with at least one (1) and not more than two (2) approved headlamps. Every motorcycle with a sidecar or other similar attachment shall be equipped with a lamp on the outside limit of such attachment capable of displaying a white light to the front thereof.

(d) Any motor vehicle may be equipped with no more than one (1) spotlamp; but every lighted spotlamp shall be so aimed and used as not to be dazzling or glaring to any approaching vehicle or the operator thereof.

(e) Every new passenger car, new commercial motor vehicle and omnibus with a capacity of more than six (6) passengers registered in the State of Missouri after January 1, 1966, when operated on a highway or street within the City, shall also carry at the rear at least two (2) approved red reflectors, at least one (1) at each side, so designed, mounted on the vehicle and maintained as to be visible during the times when lighted lamps are required from all distances within five hundred (500) to fifty (50) feet from such vehicle when directly in front of a motor vehicle displaying lawful undimmed headlamps. Every such reflector shall be mounted upon the vehicle at a height not to exceed sixty (60) inches nor less than fifteen (15) inches above the surface upon which the vehicle stands. Any person who knowingly operates a motor vehicle without the lamps required in this Section in operable condition is guilty of an infraction.

(f) Headlamps, when lighted, shall exhibit lights substantially white in color; auxiliary lamps, cowllamps and spotlamps, when lighted, shall exhibit lights substantially white, yellow or amber in color. No person shall drive or move any vehicle or equipment, except a school bus when used for school purposes or an emergency vehicle, upon any street or highway with any lamp or device thereon displaying a red light visible from directly in front thereof.

(g) At the times when lighted lamps are required, at least two (2) lighted lamps shall be displayed, one (1) on each side of the front of every motor vehicle except a motorcycle and except a motor-drawn vehicle except when such vehicle is parked subject to the provisions governing lights on parked vehicles. Whenever a motor vehicle equipped with headlamps as required in this Chapter is also equipped with any auxiliary lamps or a spotlamp or any other lamp on the front thereof projecting a beam of an intensity greater than three hundred (300) candlepower, not more than a total of four (4) of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

Section 13-140.1. Vision-Reducing Material Applied to Windshield or Windows Without Permit Prohibited; Exceptions. [Ord. No. 836 §1; Ord. No. 1555 §1, 9-4-2001]

(a) Pursuant to Section 307.173, RSMo., except as provided for in Subsection (i) and (ii) of this Section, no person shall operate any motor vehicle registered in the State of Missouri on any public highway or street in the City of Eureka with any manufactured vision-reducing material applied to any portion of the motor vehicle's windshield, sidewings or windows located immediately to the left and right of the driver which reduces visibility from within or without the motor vehicle. This Section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles provided that such material does not interfere with the driver's normal view of the road. This Section shall not prohibit factory installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of

the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

(1) A permit to operate a motor vehicle with a front sidewing vent or window that has a sun screening device, in conjunction with safety glazing material, that has a light transmission of thirty-five percent (35%) or more plus or minus three percent (3%) and a luminous reflectance of thirty-five percent (35%) or less plus or minus three percent (3%) may be issued by the Missouri Department of Public Safety to a person having a physical disorder requiring the use of such vision-reducing material. If, according to the permittee's physician, the physical disorder requires the use of a sun screening device which permits less light transmission and luminous reflectance than allowed under the requirements of this Subsection, the limits of this Subsection may be altered for that permittee in accordance with the physician's prescription. The Director of the Department of Public Safety shall promulgate rules and regulations for the issuance of the permit. The permit shall allow operation of the vehicle by immediate family members who are husband, wife and sons or daughters who reside in the household.

(2) Any vehicle licensed with a historical license plate shall be exempt from the requirements of this Section.

(b) For purposes of this Section, *"recreational vehicle"* shall mean a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, kitchen units or fixtures) and bath and toilet rooms.

Section 13-140.2. Dimming of Lights, When. [Ord. No. 846, §1]

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:

When 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.

For purposes of this section, multiple-beam road lighting equipment shall be defined as headlamps or similar devices arranged so as to permit the driver of the vehicle to use one or two or more distributions of light on the road.

Section 13-140.3. Altering Passenger Motor Vehicle by Raising Front or Rear of Vehicle Prohibited — Bumpers Front and Rear Required — Violations not to Pass Inspection — Penalty — Certain Vehicles Exempt. [Ord. No. 1856 §1, 9-6-2005]

(a) No person shall operate any passenger motor vehicle upon the public streets or highways of the City of Eureka, the body of which has been altered in such a manner that the front or rear of the vehicle is raised at such an angle as to obstruct the vision of the operator of the street or highway in front or to the rear of the vehicle.

(b) Every motor vehicle which is licensed in the State of Missouri and operated upon the public streets or highways of the City of Eureka shall be equipped with front and rear bumpers if such vehicle was equipped with bumpers as standard equipment. This Subsection shall not apply to motor vehicles designed or modified primarily for off-highway purposes while such vehicles are in tow or to motorcycles or motor-driven cycles or to motor vehicles registered as historic motor vehicles when the original design of such vehicles did not include bumpers nor shall the provisions of this Subsection prohibit the use of drop bumpers. Maximum bumper heights of both the front and rear bumpers of motor vehicles shall be determined by weight category of gross vehicle weight rating (GVWR) measured from a level surface to the highest point of the bottom of the bumper when the vehicle is unloaded and the tires are inflated to the manufacturer's recommended pressure.

(b) Maximum bumper heights are as follows:

	Maximum front bumper height/ Maximum rear bumper height
Motor vehicles except commercial motor vehicles:	22 inches/22 inches
Commercial motor vehicles (GVWR):	
4,500 lbs. and under:	24 inches/26 inches
4,501 lbs. through 7,500 lbs.:	27 inches/29 inches
7,501 lbs. through 9,000 lbs.:	28 inches/30 inches
9,001 lbs. through 11,500 lbs.:	29 inches/31 inches

(c) A motor vehicle in violation of this Section shall not be approved during any motor vehicle safety inspection.

Section 13-141. Same — Horns; Mufflers; Sirens.

Every motor vehicle shall be equipped with a horn or other approved warning device in good working order capable of emitting a sound adequate in quantity and volume to give warning of the approach of such vehicle to other users of the street and to pedestrians. Such signal and device shall be used for warning purposes only and shall not be used for making any unnecessary noise.

(a) Emergency vehicles such as fire department, police, ambulances and other types of emergency vehicles when in use in emergencies only, may be equipped with and use, as a warning of its approach to vehicles and pedestrians a siren or bell.

(b) All motor vehicles shall be equipped with approved mufflers so that, when in operation, excessive and unnecessary noises shall be restrained and exhaust noises from the motor of such vehicles shall be quieted. No "cutouts" shall be permitted on any motor powered vehicle.

Section 13-142. Tampering. [Ord. No. 315, §1; Ord. No. 414, §1; Ord. No. 569, §2]

A person commits the crime of tampering if he:

(a) Tampers with property of another for the purpose of causing substantial inconvenience to that person or another;

(b) Unlawfully operates or rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor propelled vehicle; or

(c) Tampers or makes connection with property of a utility.

Section 13-143. Littering. [Ord. No. 315, §1; Ord. No. 414, §1; Ord. No. 570, §2.; Ord. No. 1701 §§1-2, 6-17-2003]

A person commits the crime of littering if he or she throws or places, or causes to be thrown or placed, any glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, refuse, rubbish or yard waste (such as grass clippings, weeds, leaves, vines, hedge and shrub trimmings and tree limbs) of any kind, nature or description on the right-of-way of any public road or State highway, or on any private real property owned by another without his consent, or on or in any of the waters or on the banks of any stream.

Section 13-144. State Permit Required for Operation by Person Under Sixteen Years of Age. [Ord. No. 315, §1; Ord. No. 414, §1]

It shall be unlawful for any person under the age of sixteen years to drive or operate any motor powered vehicle upon the public streets and thoroughfares of the city unless such person has a permit issued by the state so to do.

Section 13-144.1. Unauthorized Operation and Parking of Motor Propelled Vehicles or Use of Animals on Private Property and Common Land. [Ord. No. 444 §§1-4; Ord. No. 1104 §§1-2, 6-21-1994; Ord. No. 2048 §2, 6-17-2008]

(a) It shall be unlawful for any person to operate, park, or cause to be operated or parked any motor propelled vehicle including, but not limited to, automobiles, motorcycles or mini bikes or to ride, lead or drive or cause to be ridden, led or driven any beast of burden including, but not limited to, horses, ponies or mules on private property within the City without the written consent of the owner or person in control thereof.

(b) It shall be unlawful for any person to operate, park, or cause to be operated or parked any motor propelled vehicle or to ride, lead, drive or cause to be ridden, led or driven any animal on the common land of any subdivision within the City or upon any parks owned by the City without the consent of the trustees of the common land or the City Administrator or, if there are no such trustees, without the consent of the owners or other person designated by the owner to be in control of such land.

(c) It shall be unlawful to operate a motorcycle designed for use off of paved roads on private property within one hundred (100) feet of another's residential property.

(d) The use of motor propelled vehicles or animals on designated roadways in the case of vehicles and bridle paths in the case of animals shall not be construed as violations of the foregoing subsections of this section.

(e) The following procedure shall be followed upon apprehension of persons in violation of the foregoing provisions of this section.

(e) Any person violating the provisions relating to the unauthorized operation or parking of motor propelled vehicles or use of animals, whether on-view or encountered in response to a complaint, should be stopped and interrogated. If the person does not own or legally reside on the concerned property, he or she should be requested to display written consent on the concerned property authorizing his or her personal use of the property for the operation or use of such motor propelled vehicle or animal. If the person cannot produce a valid consent, one of the following procedures shall be followed:

(1) *Juvenile.* A juvenile will be taken into custody for violation of the Missouri Juvenile Code by reason of violation of the appropriate foregoing provisions. A wrecker will be requested to convey the motor vehicle or animal to the closest contract garage facility for safekeeping, if it is not possible to release the motor vehicle or animal to the legal owner at the scene of the violation. The juvenile shall be conveyed to the police station for notification to the parents or legal guardian and subsequent release to their custody.

(2) *Adults.* The adult shall be placed under arrest for violation of the appropriate provision of this section. A wrecker shall be requested to convey the motor vehicle or animal to the closest facility for safekeeping, if it is not possible to release the motor vehicle or animal to the legal owner at the scene of the violation. The adult will then be conveyed to the police station for processing.

Section 13-144.2. Excessive Noise. [Ord. No. 450, §1.; Ord. No. 1969 §1, 4-3-2007]

(a) The users and operators of vehicles within the city shall use and operate such vehicles in such a manner or condition that all excessive and unnecessary noises are avoided by its machinery, motor, signaling devices or other parts or by any improperly loaded cargo, including, but not limited, to the following measures;

(1) No muffler cutouts shall be used;

(2) The motors of all motor vehicles shall be fitted with properly attached mufflers of such capacity and construction as to quiet the maximum possible exhaust noise;

(3) Any cutout or opening in the exhaust pipe, between the motor and 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.

(b) No person shall slow a vehicle by the practice known as "engine braking" or "dynamic braking", whereby rapid downshifting of a vehicle's engine or a compression release device is used in lieu of applying a vehicle's wheel brakes resulting in noise being emitted from the vehicle. Engine/dynamic braking by any motor vehicle on any public highway, street, alley or parking lot within the City is hereby declared to be a public nuisance and is prohibited.

Section 13-144.3. Hand and Mechanical Signals. [Ord. No. 1082 §1, 1-18-1994]

No person shall stop or suddenly decrease the speed of or turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety and then only after the giving of an appropriate signal in the manner provided herein.

(1) An operator or driver when stopping, or when checking the speed of his vehicle, if the movement of other vehicles may reasonably be affected by such checking of speed, shall extend his arm at an angle below horizontal so that the same may be seen in the rear of his vehicle.

(2) An operator or driver intending to turn his vehicle to the right shall extend his arm at an angle above horizontal so that the same may be seen in front of and in the rear of his vehicle, and shall slow down and approach the intersecting highway as near as practicable to the right side of the highway along which he is proceeding before turning.

(3) An operator or driver intending to turn his vehicle to the left shall extend his arm in a horizontal position so that the same may be seen in the rear of his vehicle, and shall slow down and approach the intersecting highway so that the left side of his vehicle shall be as near as practicable to the centerline of the highway along which he is proceeding before turning.

(4) The signals herein required shall be given either by means of the hand and arm or by a signal light or signal device in good mechanical condition of a type approved by the State Highway Patrol; however, when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle then such signals shall be given by such light or device. A vehicle shall be considered as so constructed or loaded that a hand and arm signal would not be visible both to the front and rear when the distance from the center of the top of the steering post to the rear limit of the body or load thereon exceeds fourteen (14) feet, which limit of fourteen (14) feet shall apply to signal 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 said 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 the first (1st) day of January, 1954.

Section 13-145. Penalty for Violation of Article. [Ord. No. 315, §1; Ord. No. 414, §1]

Any person violating any of the provisions of this article shall upon conviction be punished by a fine of not less than one dollar nor more than five hundred dollars, or by imprisonment in the county jail for a term not exceeding ninety days, or by both such fine and imprisonment.

ARTICLE XIX
Derelict or Abandoned Vehicles

Section 13-146. Abandoned Motor Vehicles on Public Property, Removal — Hazards on Land and Water, Removal, Limited Liability, When — Towing of Property Report to Highway or Water Patrol when, Owner Liable for Costs — Check for Stolen Vehicles Procedure — Reclaiming Vehicle — Lien for Charges — Record Maintenance by Towing Companies — Lienholder Repossession, Procedure. [Ord. No. 1083 §§1-2, 1-18-1994; Ord. No. 1364 §1, 7-21-1998]

All portions of Sections 301 and 304, RSMo., applicable to local governments relating to abandoned motor vehicles on public property shall be applicable within the corporate limits of the City of Eureka.

Section 13-147. Vehicles Left Unattended on Private Property of Another, Procedure for Removal and Disposition — Violation of Certain Required Procedure, Penalty. [Ord. No. 1084 §§1-2, 1-18-1994; Ord. No. 1364 §2, 7-21-1998]

All portions of Sections 301 and 304, RSMo., applicable to local governments relating to vehicles left unattended on private property shall be applicable within the corporate limits of the City of Eureka.

ARTICLE XX
Miscellaneous Provisions Concerning Seat Belts and Passengers in Trucks

Section 13-148. Seat Belts and Child Restraint Devices. [Ord. No. 834 §1; Ord. No. 835 §1; Ord. No. 1125 §§1 — 3, 9-20-1994; Ord. No. 1324 §1, 11-18-1997; Ord. No. 2292 §1, 2-18-2014]

(a) Except as otherwise provided in this Section, each driver and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this City shall wear a properly adjusted and fastened safety belt that meets Federal National Highway Transportation Act requirements, except that a child less than sixteen (16) years of age shall be protected as required in this Section.

(b) As used in this Section, the following terms shall apply:

CHILD BOOSTER SEAT — A seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 CFR 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system.

CHILD PASSENGER RESTRAINT SYSTEM — A seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 CFR 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system.

DRIVER — A person who is in actual physical control of a motor vehicle.

(c) Every driver transporting a child under the age of sixteen (16) years shall be responsible, when transporting such child in a motor vehicle operated by that driver on the streets or highways of this State, for providing for the protection of such child as follows:

(1) Children less than four (4) years of age, regardless of weight, shall be secured in a child restraint system appropriate for that child;

(2) Children weighing less than forty (40) pounds, regardless of age, shall be secured in a child passenger restraint system appropriate for that child;

(3) Children at least four (4) years of age but less than eight (8) years of age, who also weigh at least forty (40) pounds but less than eighty (80) pounds and who are also less than four (4) feet, nine (9) inches tall, shall be secured in a child passenger restraint system or booster seat appropriate for that child;

(4) Children at least eighty (80) pounds or children more than four (4) feet, nine (9) 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 sixteen (16) years of age being transported in a motor vehicle.

(d) Any driver who violates Subsection (c)(1), (c)(2) or (c)(3) of this Section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than fifty dollars ($50.00) and court costs. Any driver who violates Subsection (c)(4) of this Section shall be subject to the penalty in Subsection (5) of Section 307.178, RSMo. If a driver receives a citation for violating Subsection (c)(1), (c)(2) or (c)(3) 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.

(e) 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 (4) years of age or older who are passengers on a school bus designed for carrying eleven (11) passengers or more and which is manufactured or equipped pursuant to Missouri Minimum Standards for School Buses as school buses are defined in Section 301.010, RSMo.

Section 13-149. Passengers in Truck Beds. [Ord. No. 1324 §2, 11-18-1997]

(a) No person shall operate any truck, as defined in Section 301.010, RSMo., with a licensed gross weight of less than twelve thousand (12,000) pounds when such truck is operated within the corporate limits of this City when any person under eighteen (18) years of age is riding in the unenclosed bed of such truck. No person under eighteen (18) years of age shall ride in the unenclosed bed of such truck when the truck is in operation. Any person who operates a truck with a licensed gross weight of less than twelve thousand (12,000) pounds in violation of this Section shall, upon conviction, be punished by a fine of not more than twenty-five dollars ($25.00), plus court costs. 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. *"Special event"*, for the purposes of this Section, is a specific social activity of a definable duration which is participated in by the person riding in the unenclosed bed;

(6) Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purposes of providing assistance to, or ensuring the safety of, other persons engaged in a recreational activity; or

(7) Any person riding in the unenclosed bed of a truck if such truck is the only legally titled, licensed and insured vehicle owned by the family of the person riding in the unenclosed bed and there is insufficient room in the passenger cab of the truck to accommodate all passengers in such truck. For the purposes of this Subdivision the term *"family"* shall mean any persons related within the first degree of consanguinity.

Chapter 14

MUNICIPAL COURT

Section 14-1. Court Established. [Ord. No. 548, §2]

There is hereby established in the city a municipal court, to be known as the "Eureka Municipal Court, a Division of the 21st Judicial Circuit Court of the State of Missouri." This court is a continuation of the police court of the city as previously established, and is termed herein "the municipal court."

Section 14-1.1. Divisions. [Ord. No. 656, §1]

There shall be two divisions of the municipal court, with concurrent authority, and a municipal judge, as hereinafter provided for, shall preside in and over each division.

Section 14-2. Jurisdiction. [Ord. No. 548, §2]

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

Section 14-3. Appointment of Judges. [Ord. No. 548, §2; Ord. No. 656, §2]

The judge of each of the two divisions of the city municipal court shall be known as a municipal judge of the 21st Judicial Circuit Court and, as such municipal judge, shall be appointed to his position by the mayor, subject to the confirmation of the board of aldermen, for a term as specified in section 14-4.

Section 14-4. Term of Office. [Ord. No. 548, §2]

The municipal judge shall hold his office for a period of two years. If for any reason a municipal judge vacates his office, his successor shall complete that term of office even if the same be for less than two years.

Section 14-5. Vacation of Office. [Ord. No. 548, §2]

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

(a) Upon removal from office by the state commissioner on the retirement, removal and discipline of judges, as provided in Missouri Supreme Court Rule 12;

(b) Upon attaining his seventy-fifth birthday; or

(c) If he should lose his license to practice law within the state.

Section 14-6. Qualifications for Office. [Ord. No. 548, §2]

The municipal judge shall possess the following qualifications before he shall take office:

(a) He must be a licensed attorney, qualified to practice law within the state.

(b) He need not reside within the city.

(c) He must be a resident of the state.

(d) He must be between the ages of twenty-one and seventy-five years.

(e) He may serve as municipal judge for any other municipality.

(f) He may not hold any other office within the city government.

(g) The municipal judge shall be considered holding a part-time position, and as such may accept within the requirements of the Code of Judicial Conduct, Missouri Supreme Court Rule 2, other employment.

Section 14-7. Superintending Authority. [Ord. No. 548, §2]

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 judge and court personnel of such court shall obey his directives.

Section 14-8. Report to Board of Aldermen. [Ord. No. 548, §2; Ord. No. 658, §§1, 2]

The municipal judges shall cause to be prepared in the first ten days of every month a report indicating a statistical list of all cases tried and heard before the court during the preceding month, giving in each case the disposition of such case, the fine imposed, if any, the amount of costs and the cases in which there was an application for trial de novo, respectively. The same 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 same to the board of aldermen of the city for examination at its first session thereafter. The municipal court shall, within the ten 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.

Section 14-9. Docket and Court Records. [Ord. No. 548, §2]

The municipal judge shall be a conservator of the peace. He shall keep a docket in which he shall enter every case commenced before him and the proceedings therein, and he shall keep such other records as 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 his office, to his successor in office or to the preceding judge of the circuit court.

Section 14-10. Municipal Judge; Powers and Duties Generally. [Ord. No. 548, §2]

The municipal judge shall be and is hereby authorized to:

(a) Establish a traffic violations bureau as provided for in the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and section 479.050 of the Revised Statutes of Missouri.

(b) Administer oaths and enforce due obedience to all orders, rules and judgments made by him, and may fine and imprison for contempt committed before him while holding court, in the same manner and to the same extent as a circuit judge.

(c) 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.

(d) Make and adopt such rules of practice and procedures 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 Missouri Rules of Practice and Procedure in Municipal and Traffic Courts. Any and all rules made or adopted hereunder may be annulled or amended by this Code and any other ordinance of the city limited to such purpose; provided, that the same does not violate, or conflict with, the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts or State Statutes.

(e) The municipal judge shall have such other powers, duties and privileges as are or may be prescribed by the laws of the state, this Code or other ordinances of the city.

Section 14-11. Traffic Violations Bureau. [Ord. No. 548, §2]

Should the municipal judge determine that there shall be a traffic violations bureau, the city shall provide all expenses incident to the operation of the same, subject to the approval of the board of aldermen. The police clerk is hereby designated as the traffic violations clerk for such bureau, if established.

Section 14-12. Issuance and Execution of Warrants. [Ord. No. 548, §2]

All warrants issued by a municipal judge shall be directed to the city marshal, chief of police or any other police officer of the municipality or to the sheriff of the county. The warrant shall be executed by the marshal, chief of police, police officer or sheriff any place within the limits of the county and not elsewhere unless the warrants are endorsed in the manner provided for in warrants in criminal cases and, when so endorsed, shall be served in other counties, as provided for in warrants in criminal cases.

Section 14-13. Arrests Without Warrants. [Ord. No. 548, §2; Ord. No. 694, §1 & 2]

The city marshal, the chief of police or any other police officer of the city may arrest on view, and without a warrant, any person he sees violating or who he has reasonable grounds to believe has violated any law of the state, including a misdemeanor, or has violated any ordinance of the city, but such officer shall, before trail, file a written

complaint with the judge hearing violations of this Code and any other ordinance of the city.

Section 14-14. Jury Trials. [Ord. No. 548, §2]

Any person charged with a violation of this Code and any other 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 this Code and any other ordinance of the city demands trial by jury, the municipal court shall certify the case to the presiding judge of the circuit court for reassignment, as provided in section 517.520 (2) of the Revised Statutes of Missouri.

Section 14-15. Duties of the City's Prosecuting Attorney. [Ord. No. 548, §2]

It shall be the duty of an attorney designated by the municipality to prosecute the violations of this Code and any other ordinance of the city before the municipal judge or before any circuit judge hearing violations of the same. The salary or fees of the attorney and his necessary expenses incurred in such prosecutions shall be paid by the city. The compensation of such attorney shall not be contingent upon the result in any case.

Section 14-16. Summoning of Witnesses. [Ord. No. 548, §2]

It shall be the duty of the municipal judge to summon all persons whose testimony may be deemed essential as witnesses at the trial, and to enforce their attendance by attachment, if necessary. The fees of witnesses shall be the same as those fixed for witnesses in trials before associate circuit judges and shall be taxed as other costs in the case. When a trial shall be continued by a municipal judge it shall not be necessary to summon any witnesses who may be present at the continuance; however, the municipal judge shall orally notify such witnesses as either party may require to attend before him on the day set for trial to testify in the case, and enter the names of such witnesses on his docket, which oral notice shall be valid as summons.

Section 14-17. Transfer of Complaint to Associate Circuit Judge. [Ord. No. 548, §2]

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

Section 14-18. Jailing of Defendants. [Ord. No. 548, §2]

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, and it shall be the duty of the sheriff, if space for the prisoner is available in the county jail, upon receipt of a warrant of commitment from the judge, to receive and safely keep such prisoner until discharged by due process of law. The municipality shall pay the board of such prisoner at the same rate as may now or hereafter be allowed to such sheriff for the keeping of such prisoner in his custody. The same shall be taxed as cost.

Section 14-19. Parole and Probation. [Ord. No. 548, §2]

Any judge hearing violations of this code and any other ordinance of the city may, when in his judgement 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.

Section 14-20. Right of Appeal. [Ord. No. 548, §2]

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 circuit 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 the Supreme Court Rules.

Section 14-21. Appeal From Jury Verdicts. [Ord. No. 548, §2]

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 appellant court.

Section 14-22. Breach of Recognizance. [Ord. No. 548, §2]

In the case of a breach of any recognizance entered into before a municipal judge or an associate circuit judge hearing a violation of this Code and any other ordinance of the city, the same shall be deemed forfeited and the judge shall cause the same 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 the event of cases caused to be prosecuted by a municipal judge, such shall be on the transcript of the proceedings before the municipal judge. All monies recovered in such actions shall be paid over to the municipal treasury to the general revenue fund of the municipality.

Section 14-23. Disqualification of Municipal Judge From Hearing Particular Case. [Ord. No. 548, §2]

A municipal judge shall be disqualified to hear any case in which he is in anywise interested, or, if before the trial is commenced, the defendant or the prosecutor files an affidavit that the defendant or the municipality, 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.

Section 14-24. Temporary Municipal Judge. [Ord. No. 548, §2]

If a municipal judge be 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. The board of aldermen shall provide by ordinance for the compensation of any person designated to act as municipal judge under the provisions of this section.

Section 14-25. Clerk of Municipal Court. [Ord. No. 548, §2]

The police clerk is hereby designated as the clerk of the municipal court. The duties of such clerk shall be as follows:

(a) To collect such fines for violations of such offenses as may be described, and the court costs thereof;

(b) To take oaths and affirmations;

(c) To accept signed complaints and allow the same to be signed and sworn to or affirmed before such clerk;

(d) To sign and issue subpoenas requiring the attendance of witnesses and sign and issue subpoenas duces tecum;

(e) To accept the appearance, waiver of trial and plea of guilty and payment of fine and costs in traffic violations bureau cases or as directed by the municipal judge and generally act as violation clerk of the traffic violations bureau;

(f) To perform all other duties as provided for by this Code and any other ordinance of the city by rules of practice and procedure adopted by the municipal judge and by the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and by statute; and

(g) To maintain, properly certified by the city clerk, a complete copy of this Code and any other ordinance of the city which shall constitute prima facie evidence of the same before the court. Further, to maintain a similar certified copy on file with the clerk serving the circuit court of the county.

Section 14-26. Court Costs — Generally. [Ord. No. 548 §2; Ord. No. 1121 §§1-2, 9-6-1994; Ord. No. 1166 §3, 5-16-1995; Ord. No. 1212 §3, 2-6-1996; Ord. No. 1262 §§1-2, 11-5-1996; Ord. No. 1568 §§1 — 2, 11-6-2001; Ord. No. 1905 §1, 4-18-2006]

In addition to any fine that may be imposed by the municipal judge, there shall be assessed as costs in all cases the following:

(a) Costs of court in the amount of twelve dollars.

(b) In all cases except those for nonmoving traffic violations, costs for the training of police officers in the amount of two dollars.

(c) Other costs, such as for the issuance of a warrant, a commitment or summons, as provided before the associate circuit judge in criminal prosecutions. The fee assessed for the issuance of a warrant shall be fifty dollars ($50.00).

(d) Actual costs assessed against the city by the county sheriff for apprehension or confinement in the county jail.

(e) Mileage, in the same amount as provided to the sheriff in criminal violations, for each mile and fraction thereof the officer must travel in both directions in order to serve any warrant or commitment or order of the court.

(f) *Additional costs.*

(1) A five dollar ($5.00) additional fee shall hereby be assessed in connection with any and all drug-related offense and alcohol-related traffic violation offenses within the City of Eureka.

(2) Said fee shall be collected by the Eureka Court Clerk and paid at least monthly to the Director of Revenue, and placed to the credit of the Independent Living Center Fund created by Section 178.653, RSMo.

(g) In all cases except non-moving traffic violations, costs for Crime Victims' Compensation, in the amount of seven dollars fifty cents ($7.50).

(h) In the case of all moving violations involving alcohol or drug violations, costs for Drug/Alcohol Related Traffic Violations (D/ARTV), in the amount of five dollars ($5.00).

(i) *Court costs to be used in the training of police officers.* The Municipal Court of the City of Eureka may assess as court costs up to three dollars ($3.00) for each violation of the general criminal laws of the State, including infractions or violations of the ordinances of the City of Eureka, provided that no such fee shall be collected for non-moving traffic violations, and no such fee shall be collected for violations in fish or 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. Two dollars ($2.00) of such fees collected shall be transmitted monthly to the Treasurer of the City of Eureka, to be used locally for training Law Enforcement Officers. One dollar ($1.00) of such fees collected shall be deposited into the Peace Officers Standards and Training Commission Fund, to be used Statewide for training Law Enforcement Officers.

(j) In the case of intoxication-related offenses as defined by Section 577.023, RSMo., an additional fee in the amount of twenty-five dollars ($25.00) shall be assessed. Such fee shall be dedicated to a Spinal Cord Injury Fund.

(k) A two dollar ($2.00) surcharge shall be imposed in conjunction with all criminal cases involving an infraction or violation of an ordinance, which shall be deposited into an Inmate Security Fund to be utilized for maintenance costs associated with biometric verification systems.

Section 14-27. Same — Assess Against Prosecuting Witness. [Ord. No. 548, §2]

The costs of any action may be assessed against the prosecuting witness and judgement be rendered against him that he pay the same 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.

Section 14-28. Installment Payment of Fine. [Ord. No. 548, §2]

When a fine is assessed for violating this Code and any other ordinance of the city, it should be within the discretion of the judge assessing the fine to provide for the payment

of a fine on an installment basis under such terms and conditions as he may deem appropriate.

Section 14-29. When Sessions of Court Held. [Ord. No. 548, §2]

A formal session of the municipal court shall be convened at least one day in each month; however, the municipal court shall be opened every day in the week except Saturday, Sunday and legal holidays for the transaction of such other business as may come before it.

Section 14-30. Use of City Jail. [Ord. No. 688, §§1-3]

The jail facility owned and operated by the city shall be used primarily for housing persons charged with and/or convicted of violations of ordinances of the city and for other purposes for the benefit of the city.

When the city is holding a prisoner while waiting for other governmental entities to pick him up on warrants after the city is ready to release such prisoner, the governmental entity to pick up such prisoner shall be charged a fee.

A reasonable fee shall be charged for the use of the jail facility by other governmental entities, the amount of which fee shall be one hundred twenty five dollars per day, and may be changed from time to time by the board of aldermen, to the end that the costs of operating and maintaining the jail facility may be fairly borne by the governmental entities making use of it. This fee shall be in addition to the assessment of charges for damages to the jail facility caused by any prisoner, which charges shall be assessed to and be payable by the governmental entity responsible for the holding of such prisoner in the jail facility.

Chapter 15

OFFENSES - MISCELLANEOUS

ARTICLE I
Miscellaneous Offenses

Section 15-1. Advertisements, Signs, Etc. — Affixing to Public Places. [Ord. No. 243 §28]

No person shall paint, post, place, hang, suspend or affix any advertisement, card, poster, sign, banner or streamer of any nature, or for any purpose, nor cause the same to be done, on or to any curbstone, flagstone or any other portion of any street or sidewalk, or upon any tree or lamp post standing or erected on any public street, alley or other public place, or upon any pole erected upon any public street, alley or other public place, which pole is used to carry telephone wires or cables, electric light wires or other electric conductors, or to any hydrant, bridge or other public structure within this City; provided, that nothing herein shall apply to any official notice required by law or ordinance to be posted by public officers.

Section 15-2. Aiding and Abetting. [Ord. No. 243 §6]

Any person who shall commit, attempt to commit, conspire to commit or aid or abet in the commission of any act declared in this Code to be in violation of the ordinances of the City, whether individually, or in connection with one (1) or more other persons, or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this Code is likewise guilty of such offense.

Section 15-3. Assault. [Ord. No. 243, §10; Ord. No. 571, §2.; Ord. No. 1779 §1, 8-17-2004]

A person commits the crime of assault if:

(a) He knowingly causes, attempts to cause or recklessly causes physical injury to another person;

(b) With criminal negligence, he causes physical injury to another person by means of a deadly weapon;

(c) He purposely places another person in apprehension of an immediate physical injury;

(d) He recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person;

(e) He knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or

(f) He knowingly threatens or implies harm to an administrator, teacher, bus driver or other employee of a school board while they are engaged in the performance of their duties.

Section 15-4. Passing Bad Checks. [Ord. No. 124, §2; Ord. No. 572, §2; Ord. No. 1641 §1, 9-17-2002; Ord. No. 2312 §1, 9-2-2014]

(a) For purposes of this section, "notice in writing" means notice deposited as first class mail in the United States mail and addressed to the issuer at his address as it appears on the dishonored check or to his last known address.

(b) A person commits the crime of passing a bad check when, with the purpose to defraud or deny payment:

(1) He makes, issues, passes a check or similar sight order, or authorizes an electronic payment from a financial institution checking, savings or other transaction account for the payment of money, knowing that it will not be paid by the drawee or that there is no such drawee, or at any time during a contract period evidenced by a written contract, for which products or services have been tendered, stops payment on the check or revokes an electronic authorization.

(2) The person makes, issues or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in that account or that there is no such account or no drawee and fails to pay the check or sight order within ten (10) days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

(c) If the issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, this fact shall be prima facie evidence of his purpose to defraud and of his knowledge that the check or order would not be paid.

(d) If the issuer has an account with the drawee, failure to pay the check or order within ten (10) days after notice in writing that it has not been honored because of insufficient funds or credit with the drawee is prima facie evidence of his purpose to defraud and of his knowledge that the check or order would not be paid.

(e) The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

(f) The face amounts of any bad checks passed pursuant to one (1) course of conduct within any ten-day period may be aggregated in determining the grade of the offense.

(g) Passing bad checks is a Class A Misdemeanor, unless:

(1) The face amount of the check or sight order or the aggregated amount is five hundred dollars ($500.00) or more; or

(2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, in which cases passing bad checks is a Class D Felony.

Section 15-4.1. City Parks — Hours of Operation. [Ord. No. 466, §§1, 2; Ord. No. 530 §§1 to 4; Ord. No. 581, §§1 to 6; Ord. No. 1411 §1, 8-3-1999; Ord. No. 2171 §1, 5-3-2011]

(a) The city owned and operated parks shall be closed to the public on a daily basis, as follows:

(1) Bowlby Park, located at the southern end of Williams Drive, shall be closed daily at dusk and opened daily at dawn.

(2) Drewel Memorial Park, adjacent to the Shaws Garden Subdivision, shall be closed daily at dusk and opened daily at dawn.

(3) Hilltop Park, located in the Hilltop Village Subdivision, shall be closed daily at dusk, and opened daily at dawn.

(4) Kircher Park, located at the northern end of Williams Road, shall be closed daily at dusk and opened daily at 7:00 A.M. [Ord. No. 2268 §1, 8-6-2013]

(5) Lion's Park, located on Bald Hill Road, shall be closed daily at dusk, except by special written permit for recreational activities that have controlled city operated fixed lighting, and opened daily at dawn.

(6) Ruprecht Memorial Park shall be open on a twenty-four hour daily basis and not closed.

(7) Soetebier Park, located along Williams Road, shall be closed daily at dusk and opened daily at dawn.

(8) Berry Park, located along Forby Road, shall be closed daily at dusk and opened daily at dawn. Parking within Berry Park shall be prohibited from dusk until 8:00 A.M. Monday through Friday, except from June 1 through August 15. After-hours parking is permissible within Berry Park on such days that a Eureka High School Varsity Team athletic event is being held until one (1) hour following the official end of the particular game. [Ord. No. 2246 §1, 10-16-2012; Ord. No. 2275 §1, 10-15-2013]

(9) Legion Park, located on Bald Hill Road, shall be closed daily at dusk and opened at dawn. [Ord. No. 2268 §2, 8-6-2013]

(10) West Frisco Park, located at Frisco Street and Virginia Avenue, shall be closed daily at 2:00 A.M. and opened at dawn. [Ord. No. 2268 §2, 8-6-2013]

(11) Forby Road Nature Trail, located on Forby Road west of Alt Road, shall be closed daily at dusk and opened at dawn. [Ord. No. 2268 §2, 8-6-2013]

(12) Flat Creek Trail shall be closed daily at dusk and opened at dawn. [Ord. No. 2268 §2, 8-6-2013]

(b) The times established herein shall be determined by the United States Naval Observatory.

(c) In the event, in its discretion, the board of aldermen from time to time may deem it appropriate for the purposes of special events and/or various seasonal recreational activities, the board may, upon a recommendation from the park board or of its own volition, adjust on a temporary basis the closing and opening times of the city parks.

(d) Legible signs shall be posted at each entrance so such city parks, showing such hours when these parks are closed to the public and reciting that violators shall be subject to penalties.

(e) Persons violating the provisions of this section shall be punished by a fine not exceeding five hundred dollars or imprisonment for a period not exceeding six months or by both such fine and imprisonment.

Section 15-4.1.A. City Parks — Rules and Regulations. [Ord. No. 790 §1; Ord. No. 1610 §1, 5-21-2002; Ord. No. 1724 §1, 10-7-2003; Ord. No. 1826 §1, 4-5-2005; Ord. No. 1855 §1, 9-6-2005; Ord. No. 2220 §1, 6-19-2012; Ord. No. 2231 §§1-2, 7-17-2012]

The following rules and regulations shall be applicable for all public parks within the City unless otherwise specified:

(a) Fires are only allowed in barbecue pits.

(b) All trash, rubbish and debris must be placed in proper containers.

(c) The erection of any structure (tents, booths, posts, etc.) is prohibited unless special permission has been granted and a written permit is posted.

(d) All pets must be on a leash pursuant to Sections 4-2, 4-12 and 4-12.1.

(e) Pet owners are required to dispose of all waste created by their pets pursuant to Section 4-3(b)(1).

(f) Horses shall be allowed only within Kircher Park, except in connection with an approved special event permit, subject to conditions imposed by the Board of Aldermen in conjunction with any such authority which may be granted. Horse trailers shall not be allowed in any City park.

(g) It shall be unlawful for any person to use or possess a beverage bottle or beverage container made of glass, in whole or in part, within the City-owned and operated parks. Legible signs shall be posted at each entrance to such City parks, stating all glass beverage bottles or glass beverage containers are prohibited within the park grounds and reciting that violators shall be subjected to penalties.

(h) Bands, DJ's and amusement rides are prohibited unless prior approval has been granted.

(i) Amplified sound that can be heard from a distance greater than fifty (50) feet is prohibited.

(j) Rollerblading, rollerskating, skateboarding, hockey, bicycling, the use of go-karts or scooters and any other activity which could deface or be destructive to the surface materials or any other components of recreational facilities are not permitted under the pavilions, on the tennis courts or near/on playground equipment.

(k) Golfing is not allowed in any area of the parks.

(l) Motor vehicles are prohibited from all grass areas and areas posted for pedestrian/bike use unless prior approval has been granted.

(m) Pavilions are available for reservation and any group using a pavilion without a permit must vacate the pavilion if a group that has been permitted arrives.

(n) No for-profit, business or retail activity will be allowed unless prior approval has been permitted. Public facilities cannot be used for personal profit.

(o) No dual rear wheeled vehicles shall be allowed within Berry Park.

(p) There shall be no parking of vehicles allowed in any City park when such park is closed to the public based on established hours of operation.

(q) Commercial vehicles are prohibited at all times from parking in the area known as "West Frisco Park" at a location numbered 14 West Frisco Avenue.

(r) Registered 501(c)(3), not-for-profit charitable organizations, are allowed to conduct fundraising events at pavilions with approval from the Board of Aldermen. [Ord. No. 2268 §3, 8-6-2013]

(s) An individual or organization may reserve a pavilion for no more than four (4) weekend (Friday through Sunday) days per calendar year, unless approved by the Board of Aldermen. [Ord. No. 2268 §3, 8-6-2013]

(t) A pavilion rental fee of twenty-five dollars ($25.00) shall apply to all Eureka residents and Eureka-based not-for-profit organizations, and a rental fee of fifty dollars ($50.00) shall apply to all non-residents and not-for-profit organizations not based in Eureka. [Ord. No. 2268 §3, 8-6-2013]

(u) Cancellation of the pavilion rental agreement must be submitted no less than two (2) weeks prior to the rental date, otherwise the rental fee will be forfeited. [Ord. No. 2268 §3, 8-6-2013]

Section 15-4.1.B. Penalties for City Park Regulations. [Ord. No. 2231 §1, 7-17-2012]

Persons violating the provisions of Section 15-4.1.A. shall be punished by a fine not exceeding five hundred dollars ($500.00) or imprisonment for a period not exceeding six (6) months, or by both such fine and imprisonment.

Section 15-4.2. Fraudulent use of Credit or Debit Device. [Ord. No. 573, §1; Ord. No. 1643 §1, 9-17-2002]

A person commits the crime of fraudulent use of a credit or debit device if the person uses a credit or debit device for the purpose of obtaining services or property, knowing that:

(a) Knowing that the device is stolen, fictitious or forged; or

(b) Knowing that the device has been revoked or canceled; or

(c) Knowing that for any other reason his use of the device is unauthorized.

(d) Uses a credit device for the purpose of paying taxes, utilities, court fines and/or costs or membership fees to the City of Eureka, or any other governmental entity, and knowingly cancels said charges or payments without just cause. It shall be prima facie evidence of a violation of this Section if a person cancels said charge or payment after obtaining any service or membership card. [Ord. No. 2312 §2, 9-2-2014]

Fraudulent use of a credit or debit device is a class A misdemeanor unless the value of the property or services obtained or sought to be obtained within any thirty (30) day period is five hundred dollars ($500.00) or more, in which case fraudulent use of a credit or debit device is a Class D Felony.

Section 15-5. Curfew — Persons Under Seventeen. [Ord. No. 48, §1]

It shall be unlawful for any minor under the age of seventeen years to loiter, idle, wander, stroll or to drive or ride in an automobile or other conveyance, or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, between the hours of 11:00 P.M. and 6:00 A.M., of the following day, except on Fridays and Saturdays when the hours shall be 12:00 Midnight to 6:00 A.M. of the following day; provided, that the provisions of this section do not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the minor.

Section 15-6. Same — Responsibility of Parent, Guardian, Etc. [Ord. No. 48, §2]

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of seventeen years to knowingly permit such minor to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, between the hours of 11:00 P.M. and 6:00 A.M., of the following day; provided, that the provisions of this section do not apply when the minor is accompanied by his parent, guardian or other adult person having the care and custody of the minor, or when the minor is upon an

emergency errand or legitimate business directed by his parent, guardian or other adult person having the care and custody of the minor.

Section 15-7. Same — Procedure Upon Violation of Section 15-5. [Ord. No. 48, §3]

Any police officer finding a child violating the provisions of section 15-5 shall warn the child to desist immediately such violation and take the child home to its parent or guardian. If such parent or guardian cannot be located he shall retain custody of such minor until such parent or guardian is located and the child delivered to him. The officer shall also report the violation to the city marshal who shall cause a written notice to be served upon such parent of such minor setting forth the manner in which the minor violated the provisions of such section. Any such parent or guardian receiving such notice who shall knowingly permit such child again to violate the provisions of such section shall be deemed guilty of a misdemeanor.

Section 15-8. Peace Disturbance. [Ord. No. 774, §2]

A person commits the crime of peace disturbance if:

(a) He unreasonably and knowingly disturbs or alarms another person or persons by:

(1) Loud noise; or

(2) Offensive and indecent language which is likely to produce an immediate violent response from a reasonable recipient; or

(3) Threatening to commit a crime against any person; or

(4) Fighting; or

(5) Creating a noxious and offensive odor;

(b) He 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:

(1) Vehicular or pedestrian traffic; or

(2) The free ingress or egress to or from a public or private place.

Section 15-9. Private Peace Disturbance. [Ord. No. 562, §2]

A person commits the crime of private peace disturbance if he is on private property and unreasonably and purposely causes alarm to another person on the same premises by:

(a) Threatening to commit a crime against any person; or

(b) Fighting.

Section 15-10. Peace Disturbance Definitions. [Ord. No. 562, §2]

For the purposes of sections 15-8 and 15-9, the following words and phrases shall have the meanings respectively ascribed to them by this section:

PRIVATE PROPERTY — Any place which at the time is not open to the public. It includes property which is owned publicly or privately.

PROPERTY OF ANOTHER — Any property in which the actor does not have a possessory interest.

PUBLIC PLACE — Any place which at the time is open to the public. It includes property which is owned publicly or privately.

If a building or structure is divided into separately occupied units, such units are separate premises.

Section 15-11. Dressed as Opposite Sex. [Ord. No. 243, §36]

No person in the city shall appear in public in the dress of the opposite sex.

Section 15-12. False Reports. [Ord. No. 243, §23; Ord. No. 393, §1; Ord. No. 574, §2; Ord. No. 1272 §1, 1-7-1997]

(a) A person commits the offense of making a false report if he knowingly:

(1) Gives false information to a Law Enforcement Officer for the purpose of implicating another person in a crime; or

(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) 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.

(d) It shall be unlawful for a person to make a false report as defined in this Section.

Section 15-12.1. False Declaration in Writing. [Ord. No. 1272 §1, 1-7-1997]

(a) It shall be unlawful for any person to make a false declaration in writing for the purpose of misleading a Police Officer in the performance of his duty in the City, if he submits any written false statement which he does not believe to be true or submits or invites reliance on any writing which he knows to be forged, altered or

otherwise lacking in authenticity, or any sample, specimen, map, boundary mark or other object which he knows to be false.

(b) The falsity of the statement or the item under paragraph (a) above must be as to a fact which is material to the purposes for which the statement is made or the item submitted.

(c) It is a defense to a prosecution herein that the actor retracted the false statement or item, but this defense shall not apply if the retraction was made after the falsity or the statement or item was exposed or the Police Officer took substantial action in reliance on such statement or item.

(d) The defendant shall have the burden of injecting the issue of retraction herein.

Section 15-12.2. False Impersonation. [Ord. No. 1272 §1, 1-7-1997]

(a) A person commits the offense of false impersonation if he:

(1) Falsely represents himself to be a public servant with purpose to induce another to submit to his pretended authority or to rely upon his pretended official acts, and

(a) Performs an act in that pretended capacity; or

(b) Causes another to act in reliance upon his pretended official authority.

(2) Falsely represents himself to be a person licensed to practice or engage in any profession for which a license is required by the laws of the 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 his pretended official authority.

(b) It shall be unlawful for any person to commit an act of false impersonation.

Section 15-13. Firearms — Discharge. [Ord. No. 243, §22; Ord. No. 2121 §1, 6-1-2010; Ord. No. 2224 §1, 7-3-2012]

(a) No person except the Chief of Police, a police officer or other officer while performing official duties, shall discharge or fire off any gun, pistol or firearms of any description within three hundred (300) yards of any dwelling, house, apartment building, church, school or any other occupied or habitable structure within the City with the following exceptions: [Ord. No. 2300 §1, 5-6-2014]

(1) Paintball guns operated by patrons of a City-approved paintball facility.

(2) Firearms of a type and caliber approved for discharge within a City-approved indoor firing range.

(3) Firearms of a type and caliber approved for discharge in connection with a City-approved outdoor military training facility.

(b) No person except the Chief of Police, a police officer or other officer while performing official duties, shall discharge or fire off any gun, pistol or firearms projecting single or multiple solid projectiles anywhere in the City with the following exceptions: [Ord. No. 2300 §1, 5-6-2014]

(1) Paintball guns operated by patrons of a City-approved paintball facility.

(2) Firearms of a type and caliber approved for discharge within a City-approved indoor firing range.

(3) Firearms of a type and caliber approved for discharge in connection with a City-approved outdoor military training facility.

(c) Nothing herein contained shall be construed as prohibiting the conduct of adequately supervised shooting matches or shooting concessions sponsored by athletic, civic, patriotic or charitable organizations, for which the Mayor has issued a written permit.

Section 15-13.1. Transporting of Firearms. [Ord. No. 2265 §1, 6-18-2013]

(a) It shall be unlawful for any person to openly carry a firearm, or any other weapon readily capable of lethal use, across property containing or parking lots serving a gun shop, ammunition shop, firing range or other business that sells or allows the use of firearms within the City of Eureka. Any such weapons shall be transported into such businesses in an appropriate case or storage unit or shall be fully concealed on his or her person if he or she has a valid permit to carry a concealed firearm.

(b) Nothing in this Section shall be construed to forbid United States marshals, sheriffs, constables and their deputies, and any regular, special or ex officio police officer, or any other law enforcement officer of the United States, the state, the county or the City, or the owners or authorized employees of such establishments set forth in Subsection (a) from wearing such weapons in an unconcealed state as shall be necessary in the performance of their duties or employment.

(c) A violation of this Section shall be punishable pursuant to general penalty provisions as set forth in Section 1-7 of the Municipal Code.

Section 15-14. Fireworks — Discharge. [Ord. No. 243, §30]

No person shall sell, use, manufacture, display or possess fireworks within the city at any time, except as provided in this section.

The term "fireworks," as used in this section, means and includes any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflageration or detonation and includes blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, Dago bombs, or other fireworks of like construction and any fireworks containing any

explosive or flammable compound, or any tablets or other device containing any explosive substance. The term "fireworks" shall not include sparklers, colored flares, toy pistols, toy canes, toy guns or other devices using paper caps containing twenty-five hundredths grains or less of explosive mixture, the sale and use of which shall be permitted at all times.

The prohibitions of this section shall not apply to the sale or use of blank cartridges for theatrical purposes or for signal purposes in athletic or sports events nor to public demonstrations or displays of fireworks; provided, that such public demonstrations or displays of fireworks shall be conducted under the supervision of the chief of police and the police department after application is made in writing and presented to the mayor, and a permit issued by the mayor for such demonstration or display. The chief of police is hereby directed to prepare appropriate application and permit forms to fully effectuate the terms of this section.

Section 15-15. Hawkers and Peddlers — Hours of Sale. [Ord. No. 243, §14]

No person shall display, sell, offer to sell or advertise for sale by any means whatsoever any goods, wares, merchandise, refreshments or foodstuffs upon the streets and highways within the city between the hours of 8:00 P.M. and 8:00 A.M., of the following day.

No person shall operate, cause to be operated, use or cause to be used any vehicle upon the streets and highways within the city for the purpose of displaying, selling, offering to sell or advertising for sale by any means whatsoever any goods, merchandise, wares, refreshments and foodstuffs between the hours of 8:00 P.M. and 8:00 A.M., of the following day.

The provisions of this section shall not apply to any person engaged in the delivery of goods, wares, merchandise or other articles or things in the regular course of business to the premises of persons ordering or entitled to receive the same.

Section 15-16. Same — Uninvited Solicitations. [Ord. No. 243, §13.; Ord. No. 1781 §1, 8-17-2004; Ord. No. 1828 §3, 4-19-2005]

No person shall go upon any property for the purpose of soliciting orders for the sale of goods, wares, merchandise or services or for the purpose of disposing of or peddling or hawking the same and without having first obtained a peddler's license as required pursuant to Chapter 12 of this Code.

Section 15-17. Gambling. [Ord. No. 243, §38]

No person shall set up or keep any gaming table or gambling device at which any game of chance is being or may be played for money or property.

No person shall at any such table or device or at any game of chance bet, win or lose any money or property either by the use of specie or by means of anything representing the same.

No person shall suffer any gaming table or gambling device at which any game of chance may be played to be set up or used on or in any premises in his or its possession or under his or its control.

Section 15-18. Hotels, Motels, Etc. — Obtaining Food, Lodging, Etc., With Intent to Defraud. [Ord. No. 243, §24]

No person shall obtain lodging, food, money, property or other accommodation at any hotel, inn, motel, restaurant, rooming house, boardinghouse or eating house or place of public accommodation with the intent to defraud the owner or keeper thereof.

Proof that lodging, food, money, property or other accommodations were obtained by any person by false pretense or false representation, or by false or fictitious show or pretense of any baggage or other property, or by failing or refusing to pay for the lodging, food, money, property or other accommodations on demand, or that any person gave in payment for such lodging, food, money, property or other accommodations a check or negotiable paper on which payment was refused, or that any person left the hotel, inn, motel, restaurant, boardinghouse or eating house without paying or offering to pay for such lodging, food, money, property or other accommodations or that any person surreptitiously removed or attempted to remove his baggage, or that any person registered under a fictitious name shall be prima facie proof of the intent of this person to defraud.

The provisions of this section shall not apply where there has been an agreement in writing for a delay in payment.

Section 15-18.1. Same — Registration Generally. [Ord. No. 243, §35.; Ord. No. 1747 §1, 3-2-2004]

The owner, proprietor, manager or other person in charge of any hotel, motel, lodginghouse, rooming house or other place where transients are accommodated shall, at all times, keep a standard hotel register in which shall be ascribed the names of all the guests or persons renting or occupying rooms in such house, which register shall be signed by the person renting a room or by someone under his direction. Such registration shall be made, and after the names are ascribed in the register, the manager of the house or his agent shall write the number of the room such guests or person is to occupy, together with the time when such room is rented so as to identify the room occupied by the person registering. All of the foregoing shall be done before any guest is permitted to occupy a room. Such register shall be at all times open to inspection by any guest of the house wherein such register is kept and by any executive, administrative or peace officer of the city, county or state.

Section 15-18.2. Same — Registration Under Fictitious Name. [Ord. No. 243, §35.; Ord. No. 1747 §1, 3-2-2004]

No person shall write or cause to be written, or knowingly permit to be written, in any register in any hotel, motel, lodging place, rooming house or other place whatsoever where transients are accommodated in the city, any other or different name or designation than the true name of the person so registered therein, or the name by which the person is generally known.

Section 15-18.3. Same — Occupancy of Room by Members of Opposite Sex. [Ord. No. 243, §35.; Ord. No. 1747 §1, 3-2-2004]

Persons of the opposite sex, except husband and wife, or parent and child, shall not jointly and privately occupy any room in any dwelling unit, apartment, lodginghouse, motel or any other place where transients are accommodated.

No proprietor, manager or other person in charge of such hotel, motel, lodginghouse, rooming house or other place where the transients are accommodated, shall rent or assign rooms for joint, private occupancy by persons of the opposite sex unless such persons shall be registered as husband and wife or as parent and child.

No proprietor, manager, or other person in charge of any hotel, motel, lodginghouse, rooming house or other place where transients are accommodated, shall rent or assign rooms to persons of the opposite sex for joint, private occupancy, if notwithstanding the lawful appearance of the registration, he has reasonable cause to believe that such persons are not husband and wife nor parent and child. If such transients are unknown to him, he shall not receive them as guests without first requiring some reasonable evidence of a lawful relationship.

Section 15-18.4. Same — Multiple Rentals per Night. [Ord. No. 243, §35.; Ord. No. 1747 §1, 3-2-2004]

No proprietor, manager or other person in charge of any place where transients are accommodated for sleeping or lodging purposes shall let any room more than once between the hours of 6:00 P.M. and 6:00 A.M. the next day, except to bona fide travelers with baggage.

Section 15-19. Amusement Rides; Passenger to Obey Rules; Prohibited Acts. [Ord. No. 1747 §1, 3-2-2004; Ord. No. 2097 §1, 9-1-2009]

A passenger on an amusement ride shall, at a minimum:

(a) Obey the reasonable safety rules posted in accordance with RSMo., Sections 316.203 to 316.233 and oral instructions for an amusement ride issued by the amusement owner or such owner's employee or agent, unless:

  (1) The safety rules are contrary to RSMo., Sections 316.203 to 316.233; or

  (2) The oral instructions are contrary to RSMo., Sections 316.203 to 316.233; and

(b) Refrain from acting in any manner that may cause or contribute to injuring such passenger or others, including:

  (1) Interfering with the safe operation of the amusement ride;

  (2) Not engaging any safety devices that are provided;

  (3) Disconnecting or disabling a safety device except at the express instruction of the operator;

(4) Altering or enhancing the intended speed, course or direction of an amusement ride;

(5) Extending arms and legs beyond the carrier or seating area except at the express direction of the ride operator;

(6) Throwing, dropping or expelling an object from or toward an amusement ride;

(7) Getting on or off an amusement ride except at the designated time and area, if any, at the direction of the ride operator or in an emergency; and

(8) Unreasonably controlling the speed or direction of such passenger or amusement ride that requires the passenger to control or direct himself or herself or a device.

Section 15-20. Glass Bottles and Containers Prohibited at City Events. [Ord. No. 2127 §1, 6-15-2010]

It shall be unlawful for any person to use or possess a beverage bottle or beverage container made of glass, in whole or in part, at any City event.

Section 15-21. Dogs Prohibited at City Events. [Ord. No. 2177 §1, 7-5-2011]

It shall be unlawful to bring a dog to an event the City is conducting or hosting, with the exception of City conducted or hosted events at which dogs are invited to participate, or a service animal assisting a disabled individual.

Section 15-22. Funeral Picketing, Protests and Demonstrations. [Ord. No. 1927 §1, 6-29-2006]

It shall be unlawful for any person to engage in picketing, protesting or demonstrating within three hundred (300) feet of the property line of any church, cemetery or funeral establishment, as defined by Section 333.011, RSMo., within one (1) hour prior to the commencement of any funeral and until one (1) hour following the cessation of any funeral. For purposes of this Section, "funeral" shall mean any visitation, ceremony, procession or memorial service held in connection with the viewing, burial or cremation of a deceased person. Each day on which a violation occurs shall constitute a separate offense. Violation of this Section shall be punishable by a fine not to exceed seven hundred fifty dollars ($750.00) or by imprisonment for a period not exceeding six (6) months and/or both such fine and imprisonment.

Section 15-23. Iceboxes, Refrigerators, Etc. — Leaving Abandoned on Premises. [Ord. No. 243, §33]

No person shall keep, place or cause to be placed on his land or premises, any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has airtight doors or locks which cannot be released for opening from the inside of the icebox, refrigerator or container.

No person shall keep, place or cause to be placed on his land or premises, any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight snap lock or other device thereon without first removing the doors from such icebox, refrigerator or container.

Section 15-24. Lewd and Immoral Conduct; Prostitution. [Ord. No. 243 §34]

(a) For the purpose of this section, the following terms have the meaning ascribed to them:

PROSTITUTION — The offering or receiving of the body for sexual intercourse or other physical sexual activity for hire as well as the indiscriminate or promiscuous offering or receiving of the body for sexual intercourse or other physical activity without hire.

LEWD OR LASCIVIOUS ACT — An appearance in the state of nudity. — An appearance in any indecent dress. — Exposure of the private parts of the body, which is wanton and committed in the presence of another or in any place open to the public view.

MERETRICIOUS DISPLAY — Any acts, signs, gesture or manifestations which allure, or which is calculated to allure, entices or is calculated to entice by a false show, gaudiness or tawdry ornamentation.

(b) No person shall commit or offer or agree to commit a lewd or lascivious act or an act of prostitution or moral perversion.

(c) No person shall secure or offer another for the purposes of committing a lewd or lascivious act or an act of prostitution or moral perversion.

(d) No person shall be in or near any place frequented by the public or any public place for the purpose of inducing, enticing or procuring another to commit a lewd or lascivious act or an act of prostitution or moral perversion.

(e) No person shall make a meretricious display in or near any public place, any place frequented by the public or any place open to the public view.

(f) No person shall knowingly transport any person to any place for the purpose of committing a lewd or lascivious act or any act of prostitution or moral perversion.

(g) No person shall knowingly receive, or offer or agree to receive, any person into any place or building for the purpose of performing a lewd or lascivious act, or an act of prostitution or moral perversion, or to knowingly permit any person to remain in any place or building for any such purpose.

(h) No person shall direct or offer to direct any person to any place or building for the purpose of committing any lewd or lascivious act or act of prostitution or moral perversion.

(i) No female person shall frequent or loiter in any tavern, cabaret or nightclub, with the purpose of soliciting men to purchase drinks. No proprietor or operator of any such establishment shall allow the presence in such establishment of any woman who violates the provisions of this Section.

Section 15-25. Loitering; Interference with Business. [Ord. No. 243 §12]

No person shall loiter on the streets or at the corners thereof or in the vicinity of any place of amusement, hotel, motel, restaurant, office building, shop or store, or any other place of business, or obstruct corridors, aisles, stairways or doorways, so as to prevent free access, passage or movement by members of the public, officers or employees.

No person shall by his/her presence, or by other means, either alone or in consort to others, interfere with or interrupt the conduct of business in offices, shops or stores.

Section 15-26. Officers — Impersonating. [Ord. No. 243 §15]

No person in this City shall falsely represent himself/herself to be an officer, agent, employee or a Police Officer of this City, of the County, or of the State or Federal Government; and no person, without being lawfully authorized, shall exercise or attempt to exercise any of the duties, functions or powers of any such officer.

Section 15-27. Resisting or Interfering With Officers. [Ord. No. 243 §15; Ord. No. 1325 §1, 11-18-1997; Ord. No. 1638 §1, 9-17-2002]

(a) A person commits the crime of resisting or interfering with arrest, detention or stop if, knowing that a Law Enforcement Officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, or the person should know that a Law Enforcement Officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention he or she:

    (1) Resists the arrest of himself/herself by using or threatening the use of violence or physical force or by fleeing from another such officer; or

    (2) Interferes with the arrest of another person by using or threatening the use of violence, physical force or physical interference.

(b) This Section applies to arrests with or without warrants and to arrests for any crime or ordinance violation.

(c) A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person has seen or should have seen clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing that person.

(d) It is no defense to prosecution under paragraph (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 arrests.

(e) Resisting, by means other than flight, or interfering with an arrest for a felony is a class D felony; otherwise, resisting or interfering with an arrest is a class A misdemeanor.

(f) Resisting an arrest by fleeing in such a manner that the person fleeing creates a substantial risk of serious physical injury or death to any person is a class D felony;

otherwise, resisting or interfering with an arrest, detention or stop is a class A misdemeanor.

Section 15-27.1. (Reserved) [1]

Section 15-28. Official Notices — Removal and Destruction. [Ord. No. 243 §29]

No person shall deface, destroy, tear down or remove any official notice or bulletin or any official sign or signal posted or placed in conformity with law or this Code or other ordinance, except an officer of the City, County or State in the proper discharge of his/her duties.

Section 15-29. Stealing. [Ord. No. 1025 §2, 5-19-1992; Ord. No. 1372 §1, 8-18-1998; Ord. No. 1628 §1, 9-3-2002]

(a) A person commits the crime of stealing if he/she appropriates property or services of another with a purpose to deprive him/her thereof, either without his/her consent or by means of deceit or coercion when the value of the property or services appropriated is less than five hundred dollars ($500.00), including but not limited to the following acts:

(1) Transferring or accepting the transfer of any entry stamp or marking used for entrance into any amusement park or business establishment, without the consent of the owner;

(2) Presents or attempts to present the season pass of anyone other than the presenter with the intent to gain entry into any amusement park or business establishment; or

(3) Advertises or offers for sale or resale or sells or resells any ticket or other entry coupon for any amusement park or business establishment, without the consent of the amusement park or business establishment issuing said ticket or entrance coupon, for an amount greater than the amount paid to the amusement park or business establishment.

(4) Uses any City utility, including but not limited to water, sewer or trash service, without making full payment for said services, without just cause or excuse. [Ord. No. 2312 §3, 9-2-2014]

(b) Evidence of the following is admissible in any municipal prosecution under this Section on the issue of the requisite knowledge or belief of the alleged stealer;

(1) That he/she failed and refused to pay for property or services of a hotel, restaurant, inn, boarding house, amusement park or other business establishment;

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[1]. **Editor's Note — Ord. no. 1638 §1, adopted September 17, 2002, repealed section 15-27.1 in its entirety. Former section 15-27.1 derived from ord. no. 1325 §2, 11-18-1997.**

(2) That he/she gave in payment for property or services of a hotel, restaurant, inn, boarding house, amusement park or other business establishment a check or negotiable paper on which payment was refused;

(3) That he/she left the hotel, restaurant, inn, boarding house, amusement park or other business establishment with the intent not to pay for property or services;

(4) That he/she surreptitiously removed or attempted to remove his/her baggage or possessions from a hotel, restaurant, inn, boarding house, amusement park or other business establishment;

(5) That he/she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits or reproduces a retail sales receipt, price tag, or universal price code label, or possesses, with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

(c) The value of property shall be ascertained as provided in Section 570.020 of the Revised Statutes of the State of Missouri, and this Section hereby incorporates by reference the definitions contained in Section 570.010, RSMo.

(d) The violation of any provision of this Section shall be punishable by a fine not exceeding five hundred dollars ($500.00) or by imprisonment for a period not exceeding three (3) months, or by both such fine and imprisonment.

Section 15-29.1. Receiving Stolen Property. [Ord. No. 867 §1; Ord. No. 1642 §1, 9-17-2002]

(a) A person commits the crime of receiving stolen property for the purpose of depriving the owner of a lawful interest therein if he receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen. Receiving stolen property is a Class A Misdemeanor, except when the property involved has a value of five hundred dollars ($500.00) or more, or the person receiving the property is a dealer of goods of the type in question in which case receiving stolen property is a Class C felony.

(b) Evidence of the following is admissible in any criminal prosecution pursuant to this Section to prove the requisite knowledge or belief of the alleged receiver:

(1) That he was found in possession or control of other property stolen on separate occasions from two (2) or more persons;

(2) That he received other stolen property in another transaction within the year preceding the transaction charged;

(3) That he acquired the stolen property for consideration which he knew was far below its reasonable value.

Section 15-29.2. Theft of Motor Fuel. [Ord. No. 1557 §1, 9-4-2001]

Anyone convicted of stealing motor fuel shall have their drivers license suspended pursuant to Section 570.030, RSMo. First (1st) offense — sixty (60) days with hardship

after the first thirty (30) days; second (2nd) offense — ninety (90) days with hardship after the first sixty (60) days; third (3rd) or subsequent offense — one hundred eighty (180) days with hardship after the first ninety (90) days. The person has to drive a motor vehicle so as to cause it to leave the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of such motor vehicle unless payment or authorized charge for the motor fuel dispensed has been made. This shall apply to anyone found guilty or who pleads guilty to stealing motor fuel pursuant to Section 570.030, RSMo. The suspension will begin on the date of the court's conviction. In addition to such driver's license suspension, anyone convicted of stealing motor fuel shall also be subject to any applicable theft-related penalties set forth in the Municipal Code.

Section 15-29.3. Theft of Cable Television. [Ord. No. 1639 §1, 9-17-2002]

(a) A person commits the crime of theft of cable television service if he:

(1) Knowingly obtains or attempts to obtain cable television service without paying all lawful compensation to the operator of such service by means of artifice, trick, deception or device; or

(2) Knowingly assists another person in obtaining or attempting to obtain cable television service without paying all lawful compensation to the operator of such service; or

(3) Knowingly connects to, tampers with or otherwise interferes with any cables, wires or other devices used for the distribution of cable television if the effect of such action is to obtain cable television without paying all lawful compensation therefor; or

(4) Knowingly sells, uses, manufactures, rents or offers for sale, rental or use of any device, plan or kit designed and intended to obtain cable television service in violation of this Section.

(b) Theft of cable television service is a class A misdemeanor if the value of the service appropriated is five hundred dollars ($500.00) or less.

(c) Any cable television operator may bring an action to enjoin and restrain any violation of the provisions of this Section or bring an action for conversion. In addition to any actual damages, an operator may be entitled to punitive damages and reasonable attorney fees in any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage. In the event of a defendant's verdict, the defendant may be entitled to reasonable attorney fees.

(d) The existence on the property and in the actual possession of the accused of any connection wire, or conductor, which is connected in such a manner as to permit the use of cable television service without the same being reported for payment to and specifically authorized by the operator of the cable television service shall be sufficient to support an inference which the trial court may submit to the trier of fact, from which the trier of fact may conclude that the accused has committed the crime of theft of cable television service.

(e) If a cable television company either:

(1) Provides unsolicited cable television service; or

(2) Fails to change or disconnect cable television service within ten (10) days after receiving written notice to do so by the customer, the customer may deem such service to be a gift without any obligation to the cable television company from ten (10) days after such written notice is received until the service is changed or disconnected.

(f) Nothing in this Section shall be construed to render unlawful or prohibit an individual or other legal entity from owning or operating a video cassette recorder or devices commonly known as a "satellite receiving dish" for the purpose of receiving and utilizing satellite-relayed television signals for his own use.

(g) As used in this Section, the term "cable television service" includes microwave television transmission from a multipoint distribution service not capable of reception by conventional television receivers without the use of special equipment.

Section 15-30. Prisoner — Rescuing. [Ord. No. 243, §15]

No person shall attempt to rescue any person from the custody of a police officer of the city.

Section 15-31. Same — Escaping. [Ord. No. 243, §15]

No person, while being detained or imprisoned or held in custody by any officer of this city, shall break away, escape or attempt to escape from such officer or place of detainment or custody.

Section 15-32. Profane Language. [Ord. No. 243, §11]

No person in the city shall use vulgar, profane or indecent language on any public street or other public place or place of business open to public patronage.

Section 15-33. Property Damage. [Ord. No. 243, §20; Ord. No. 575, §2]

A person commits the crime of property damage if:

(a) He knowingly damages property of another; or

(b) He damages property for the purpose of defrauding an insurer.

Section 15-34. Public Drunkenness. [Ord. No. 1005 §1, 1-15-1991]

(a) It shall be unlawful for any person or persons to enter any schoolhouse or courthouse within the City in a drunken or intoxicated condition, or to drink or to offer to drink any intoxicating liquor in any schoolhouse or courthouse within the City, and person or persons so doing shall be punishable as provided in Section 1-7 of this code.

(b) It shall be unlawful for any person or persons to operate any aircraft, boat, machinery, firearm, or other equipment, while in a drunken or intoxicated condition or under the influence of alcohol, and any person or persons so doing shall be punishable as provided in Section 1-7 of this code.

(c) A person shall be deemed in a drunken or intoxicated condition when the person has ten hundredths of one percent (.10%) or more by weight of alcohol in his blood. As used in this Section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundredth millimeters of blood and may be shown by chemical analysis of the person's blood, breath, saliva or urine.

(d) A person who appears to be in a drunken or intoxicated condition may be taken by a Police Officer to the person's residence, to any available treatment service, or to any other appropriate local facility, which may if necessary include a jail, for custody not to exceed twelve (12) hours.

(e) Any police officer detaining such person shall be immune from prosecution for false arrest and shall not be responsible in damages for taking action pursuant to Subsection (d) above, if the officer has reasonable grounds to believe the person is in a drunken or intoxicated condition by alcohol and providing that he does not use unreasonable excessive force to detain such person.

(f) Such immunity from prosecution includes the taking of reasonable action to protect himself or herself from harm by the drunken or intoxicated person.

Section 15-35. Public Records — Removal, Destruction, Etc. [Ord. No. 243, §32]

No person shall, without proper authority, take or remove any record, document, book, paper or property of any kind of the city.

No person, without proper authority, shall mutilate or destroy any record, document, book or paper on file or kept on record in any public office of the city.

No person shall retain any records, documents, book, paper or property of the city after lawful demand for the return thereof has been made by an official or duly authorized agent of the city.

Section 15-36. Rockets, Missiles and Projectiles-Construction, Discharge, Etc. [Ord. No. 243, §31]

No person shall construct, use, discharge, fire, launch or explode rockets, missiles or other similar projectiles within the city unless a written permit for such specific purpose has been obtained from the board of aldermen. In granting any such permit, the board of aldermen may prescribe such conditions and regulations for the activity permitted as they may deem necessary for the preservation and the protection of the health and welfare of the inhabitants of the city.

Section 15-37. Rock, Lumber, Etc. — Storage Constituting Health Menace. [Ord. No. 243, §40]

No person shall store any lumber, wood, coal, rock or other material or substance upon any lot or premises within this city in such a manner as to endanger public health or safety.

Section 15-38. Stones, Etc. — Throwing. [Ord. No. 243, §25]

No person shall throw any stone or other missile upon or at any vehicle, building or other public or private property, or upon or at any person in any public street, alley or place, or enclosed or unenclosed ground.

Section 15-39. Summons — Failure to Answer. [Ord. No. 243, §18]

No person, who has been lawfully summoned to appear in the municipal court of the city to answer lawful charges for violation of this Code or any other ordinance of the city, shall fail to appear on the day and at the hour to which such person has been summoned.

Section 15-40. Telephone and Telegraph Companies — Removing, Raising, Etc., Wires. [Ord. No. 38, §6]

The person engaged in the business of supplying telephone or telegraph service shall, on the request of any person, remove, raise or lower its wires temporarily to permit the moving of houses or other structures, the expenses therefor shall be paid by the party requesting the same. The person making such adjustment or change may require such payment in advance should it elect to do so, and the person making such change shall be given not less than forty-eight hours advance notice to arrange for the same.

Section 15-41. Same — Authority to Trim Trees. [Ord. No. 38, §7]

Authority is hereby granted to any telephone or telegraph company to trim trees upon and overhanging streets, alleys, sidewalks and public places of the city, so as to prevent the branches of such trees from coming in contact with the wires and cables of such company, which trimming shall be effected under the supervision and direction of such city official to whom the duties have been or may be delegated.

Section 15-42. Trespassing. [Ord. No. 243, §19; Ord. No. 566, §2]

A person commits the crime of trespassing if he knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property.

A person does not commit the crime of trespassing 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 what notice against trespassing is given by:

(a) Actual communication to the actor; or

(b) Posting in a manner reasonably likely to come to the attention of intruders.

A person enters unlawfully or remains unlawfully in or upon premises when he is not licensed or privileged to do so. A person who, regardless of his purpose, enters or

remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally communicated to him by the owner of such premises or by other authorized persons. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public.

Section 15-43. Vagrancy. [Ord. No. 243, §26]

No person without visible means of support shall wander about from place to place without being able to give a satisfactory account of himself.

No person without visible means of support shall occupy, lodge or sleep in any vacant or unoccupied yard, lot or land, garage, shed, shop or other building or structure, or in any automobile, truck, railroad car or other vehicle who does not own the same or who does not have the permission of the owner or person entitled to possession of the same, and not be able to give a satisfactory account of himself.

No person without visible means of support shall wander about and beg nor shall any person without visible means of support go about from door to door of private homes or commercial and business establishments or place himself in or upon any public way or public place to beg or receive alms for himself.

No person without visible means of support or lawful business shall wander about the streets, alleys or other public ways or places or be found abroad at late or unusual hours at night and not be able to give a satisfactory account of himself.

Section 15-44. (Reserved) [Repealed by Ordinance No. 800, §1]

Section 15-44.1. Weapons Offenses — Definitions. [Ord. No. 792 §1]

As used in this chapter:

BLACKJACK — Any instrument that is designed or adapted for the purpose of stunning or inflicting physical injury by striking a person, including but not by way of limitation any and all martial arts instruments, and which is readily capable of lethal use.

CONCEALABLE FIREARM — Any firearm with a barrel less than sixteen inches in length, measured from the face of the bolt or standing breech.

DEFACE — To alter or destroy the manufacturer's or importer's serial number or any other distinguishing number or identification mark.

EXPLOSIVE WEAPON — Any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death serious physical injury, or substantial property damage; or any device designed or adapted for delivering or shooting such a weapon.

FIREARM — Any weapon that is designed or adapted to expel a projectile by the action of an explosive.

FIREARM SILENCER — Any instrument, attachment, or appliance that is designed or adapted to muffle the noise made by the firing of any firearm.

GAS GUN — Any gas ejection device, weapon, cartridge, container or contrivance other than a gas bomb, that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury, but not any device that ejects a repellant or temporary incapacitating substance.

INTOXICATED — Substantially impaired mental or physical capacity resulting from introduction of any substance into the body.

KNIFE — Any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. For purposes of this chapter, "knife" does not include any ordinary pocket knife with no blade more than four inches in length.

KNUCKLES — Any instrument that consists of finger rings or guards made of a hard substance that is designed or adapted for the purpose of inflicting serious physical injury or death by striking a person with a fist enclosed in the knuckles.

MACHINE GUN — Any firearm that is capable of firing more than one shot automatically, without manual reloading, by a single function of the trigger.

PROJECTILE WEAPON — Any bow, crossbow, pellet gun, slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious injury or death by striking or piercing a person.

RIFLE — Any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger.

SHORT BARREL — A barrel length of less than sixteen inches for a rifle and eighteen inches for a shotgun, both measured from the face of the bolt or standing breech, or an overall rifle or shotgun length of less than twenty-six inches.

SHOTGUN — Any firearm designed or adapted to be fired from the shoulder to use the energy of the explosive in a fixed shotgun shell to fire a number of shot or single projectile through a smooth bore barrel by a single function of the trigger.

SPRING GUN — Any fused, timed or nonmanually controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death.

SWITCHBLADE KNIFE — Any knife which has a blade that folds or closes into the handle or sheath, and;

(a) That opens automatically by pressure applied to a button or other device located on the handle; or

(b) That opens or releases from the handle or sheath by force of gravity or by the application of centrifugal force.

Section 15-44.2. Weapons Offenses — Unlawful Use. [Ord. No. 821, §2]

(a) A person commits the crime of unlawful use of weapons if he knowingly:

(1) Carries concealed upon or about his person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use including, but not limited to those weapons defined in Section 15-44.1; or

(2) Sets a spring gun; or

(3) Discharges or shoots a firearm or projectile weapon into a dwelling house, railroad train, boat, aircraft or motor vehicle, as defined in Section 302.010 of the Revised Statutes of Missouri, or any building or structure used for the assembling of people; or

(4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner, including, but not limited to the weapons defined in Section 15-44.1 herein; or

(5) Possesses or discharges a firearm weapon while intoxicated; or

(6) Discharges a firearm or projectile weapon within one hundred (100) yards of any occupied schoolhouse, courthouse or church building; or

(7) Discharges or shoots a firearm or projectile weapon at a mark, at any object or at random on, along or across a public highway or discharges or shoots a firearm or projectile weapon into any outbuilding; or

(8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any school, or into any election precinct on any election day, or into any building owned or occupied by any agency of the Federal Government, State Government or political subdivision thereof, or into any public assemblage of persons met for any lawful purpose; or

(9) Discharges or shoots a firearm or projectile weapon.

(b) Paragraphs (1), (3), (4), (6), (7), (8), and (9), of subsection (a) of this section shall not apply to or affect any of the following:

(1) All state, county and municipal law enforcement officers possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, except that such firearm may be discharged only in the line of duty, or any person summoned by such officer 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 crimes, while performing their official duty;

(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 Constitution of Missouri with the judicial power of the State; or

(5) Any person whose bona fide duty is to execute process, civil or criminal.

(c) Paragraphs (1), (5) and (8) of subsection (a) 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. Paragraph (1) of subsection (a) of this section does not apply when the actor is also in possession of an exposed firearm or projectile weapon in his dwelling unit or upon business premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceable through the state.

(d) Paragraphs (1), (7), (8), and (9), of subsection (a) of this Section shall not apply to bows and arrows so long as the operation of such projectile weapon(s) is conducted as a supervised activity of the Rockwood School District or by Special Permit as approved by the Board of Aldermen.

Section 15-44.3. Firearms in City Buildings and Facilities. [2] [Ord. No. 1726 §1, 10-21-2003]

(a) No person who has been issued a concealed carry endorsement by the Missouri Director of Revenue under Sections 571.101 to 571.121, RSMo., or who has been issued a valid permit or endorsement to carry concealed firearms issued by another State or political subdivision of another State shall, by authority of that endorsement or permit, be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building owned, leased or controlled by the City of Eureka.

(b) No person shall carry a concealed firearm into any Police facility or Police station without the consent of the Chief Law Enforcement Officer in charge of that office which shall be identified as the Chief of Police of the City of Eureka or his designee. Possession of a firearm in a vehicle on the premises of the Police station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. No person shall carry concealed firearms at any meeting of the City Council. Possession of a firearm in a vehicle on the premises of City-owned property shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

(c) This Section shall not apply to buildings used for public housing by private persons, highways or rest areas, firing ranges or private dwellings owned, leased or controlled by the City.

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[2]. **State Law Reference — The provisions of L. 2003 H.B. et al, §571.094, were actually codified as §§571.101 to 571.121, RSMo., as amended.**

(d) No City employee, except Police Officers, shall carry any weapon on City property or in any City vehicle.

(e) Signs shall be posted at each entrance of any building entirely owned, leased or controlled by the City stating that carrying of firearms is prohibited. Where the City owns, leases or controls only a portion of a building, signs shall be posted at each entrance to that portion of the building stating that carrying of a firearm is prohibited.

(f) No person who has been issued a certificate of qualification, which allows that person to carry a concealed firearm before the Director of Revenue begins issuing concealed carry endorsements in July of 2004, shall be authorized by that certificate or be allowed to carry a concealed firearm or to openly carry a firearm in any building or portion of a building owned, leased or controlled by the City of Eureka.

(g) Carrying of a concealed weapon in a location prohibited by this Section by any individual who holds a concealed carry endorsement shall not be a criminal act but may be denied entrance to the building or ordered removed from the building. If such a person refuses to leave the premises and a Police Officer is summoned, such person maybe issued a citation for an amount not to exceed one hundred dollars ($100.00) for the first (1st) offense. If a second (2nd) citation for a similar violation occurs within a six (6) month period, such person shall be fined an amount not to exceed two hundred dollars ($200.00). If a third (3rd) citation for a similar violation occurs within one (1) year of the first (1st) citation, such person shall be fined an amount not to exceed five hundred dollars ($500.00). Upon sustaining the charge arising from a citation issued pursuant to this Subsection, the court shall notify the Sheriff and/or St. Louis County or the Sheriff that issued the certificate of qualification for a concealed weapon endorsement and the Department of Revenue of the State of Missouri.

Section 15-45. Tampering. [Ord. No. 1271 §1, 1-7-1997]

(a) A person commits the crime of tampering if:

(1) For the purpose of causing a substantial interruption or impairment of a service rendered to the public by a utility or by an institution providing health or safety protection, he damages or tampers with property or facilities of such a utility or institution, and thereby causes substantial interruption or impairment of service.

(2) He knowingly receives, possesses, sells, alters, defaces, destroys or unlawfully operates an automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner thereof.

(3) Tampers with property of another for the purpose of causing substantial inconvenience to that person or to another.

(4) Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor-propelled vehicle.

(5) Tampers or makes connection with property of a utility.

(6) Tampers with, or causes to be tampered with, any meter or other property of an electric, gas, steam, water or cable television utility, the effect of which tampering is either:

(a) To prevent the proper measuring of electric, gas, steam, water or cable television service; or

(b) To permit the diversion of any electric, gas, steam, water or cable television service.

(b) In any prosecution under Subparagraph (a)(6) of this Section, proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the electric, gas, steam, water or cable television service, with one (1) or more of the effects described in Subparagraph (a)(6) of this Section, shall be sufficient to support an inference which the municipal court may submit to the trier of fact, from which the trier of fact may conclude that there has been a violation of such subdivision by the person or persons who used or received the direct benefit of the electric, gas, steam, water or cable television service.

Section 15-46. Window Peeping. [Ord. No. 243, §37]

No person in the city shall look, peer or peep into any window of a hotel, motel, lodging house or private residence not on his own property; nor shall any person in the city loiter around or in view of any such window not on his own property with the intent of watching or looking through such window.

Section 15-47. Offenses Concerning Drugs and Drug Paraphernalia. [Ord. No. 333, §1; Ord. No. 683, §1]

(a) It is unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, distribute or compound any controlled or counterfeit substance, except as authorized in sections 195.010 to 195.320 of the Revised Statutes of Missouri.

(b) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of chapter 195 of the Revised Statutes of Missouri.

(c) It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used 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 chapter 195 of the Revised Statutes of Missouri.

(d) It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purposes of the advertisement, in whole or in part, is to promise the sale of objects designed or intended for use as drug paraphernalia.

(e) It is unlawful for any person to use, or to possess with intent to use, an imitation controlled substance in violation of chapter 195 of the Revised Statutes of Missouri.

(f) It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver or cause to be delivered any imitation controlled substance.

(g) It is unlawful for any person to place in any newspaper, magazine, handbill or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of any imitation controlled substance.

(h) All of the above described activities shall be unlawful and prohibited, except as authorized by the laws of the state or the laws of the United States.

(i) It is hereby made the duty of all peace officers of the city and the city attorney to enforce all provisions of this section and to cooperate with all agencies charged with the enforcement of the laws of the United States, the state and the city relating to narcotic and controlled substances.

Section 15-47.1. Ephedrine and Pseudoephedrine Products. [Ord. No. 2112 §1, 2-16-2010]

It shall be illegal to sell, deliver or distribute ephedrine, pseudoephedrine, their salts, their optical isomers or salts of their optical isomers without a valid prescription written by a Missouri licensed physician and filled by a Missouri licensed pharmacist. The controls on these drugs shall not prohibit individual healthcare practitioners from issuing orders in their professional practices and licensed healthcare facilities.

Section 15-48. Forfeiture of Vehicles or Crafts that Transport Controlled Substances. [Ord. No. 777, §1]

(1) Any vehicle, vessel or aircraft which has been used, or is being used in violation of any provision of section 195.025, shall be forfeited to the State of Missouri and any peace officer of the City of Eureka, upon making or attempting to make an arrest for a violation of this law, shall seize any such vehicle, vessel or aircraft. The officer seizing the vehicle, vessel or aircraft shall commence an action in the circuit court of the county in which the property is seized by filing a petition in the office of the clerk of the court in the name of the State of Missouri as plaintiff against the person from whom the vehicle, vessel or aircraft was seized as defendant, and there is a rebuttable presumption that the vehicle, vessel or aircraft is the property of the defendant from whom it was seized. The petition shall describe the property seized and the circumstances of the seizure and shall pray the court to make an order, declaring the vehicle, vessel or aircraft to be a common nuisance and directing the

seizing officer to sell the property at public or private sale, subject to the approval of the judge of the court. A summons shall be issued and process served on the defendant as in other civil suits. The defendant shall file his answer within thirty days after service of process upon him, whether such service is personal service, service by mail, or service by publication. After defendant's time for filing answer has expired, the court shall fix a day for hearing and the action shall be heard by the court without a jury and shall be conducted, except as otherwise provided in this law, as other cases under the code of civil procedure of the State of Missouri.

(2) In addition to any other process provided by the civil code, the clerk of the circuit court shall cause to be published one time in some newspaper having a general circulation in the county where the action is pending, or if there is no newspaper of general circulation in the county, then in some newspaper of an adjoining county, a notice to all persons whom it may concern, that the petition has been filed in court, briefly describing the vehicle, vessel, or aircraft seized, the time and circumstances of the seizure, the person from whom seized, and stating that any person claiming any interest in the property may, upon his own request, be made a party to the action and assert any claim he may have thereto within thirty days after the publication of the notice.

(3) Any person claiming any interest in the vehicle, vessel or aircraft may intervene in the action within thirty days after the publication of notice setting forth any claim he may have to the property.

(4) The court shall render such judgment as to it seems meet and just, and if it appears that any person who has made claim to the vehicle, vessel or aircraft is the owner thereof and was ignorant of the illegal use thereof and the illegal use was without his connivance or consent, express or implied, or if the court finds that the property was not being illegally used at the time of seizure, the court shall relieve the property from forfeiture and restore it to the rightful owner, or if it appears that the claimant is the holder of a bona fide lien against the property, and that he was ignorant of the illegal use thereof, the court shall, if the lien so established is equal to or more than the value of the vehicle, vessel or aircraft, order the property to be delivered to the lienor. Or, if the vehicle, vessel or aircraft is valued at more than the established lien and all costs of proceedings and sale, an order shall be made for the sale of the property by the seizing officer at public or private sale, subject to the approval of the court, and out of the proceeds of the sale shall be paid storage, if any, the lien, the cost of the proceedings, and the residue, if any, shall be paid into the general revenue fund of the State of Missouri. If it is determined that no person, other than the defendant, has any interest in the property or that the person or persons having any interest in the property knew of or connived or gave consent, express or implied, to the illegal use thereof, and if it is found by the court that the material allegations of the petition are true, the vehicle, vessel or aircraft shall be declared to be forfeited to the State of Missouri, and the court shall order the officer who seized the property to sell the property at public or private sale, subject to the approval of the court, and out of the proceeds of the sale shall be paid the cost of storage, if any, the cost of the proceedings of the case, and the balance thereof shall be paid into the general revenue fund of the State of Missouri.

(5) Officers who make seizures of vehicles, vessels or aircraft, as described herein, are authorized to call upon the prosecuting attorneys of the respective counties and the circuit attorney of the city of St. Louis and the attorney general of the State of Missouri to represent them in the proceedings contemplated by this section, and thereafter it is the duty of such prosecuting or circuit attorney or the attorney general to proceed on behalf of the officer making the call according to the provisions of this section.

(6) Appeals shall be allowed from the judgment of the court as in other civil actions.

(7) Under no circumstances shall the officer commencing the action on behalf of the state be liable for any costs or storage.

(8) Nothing contained in this section shall be deemed to relieve anyone of the criminal liabilities imposed by this law.

(9) The provisions of this section shall not operate to destroy any valid lien or any rights under any security agreement or title retention contract when the holder thereof is an innocent party.

Section 15-49. Activities Conducted Along Roadways. [Ord. No. 794 §§1 — 2; Ord. No. 1158 §§1 — 2, 4-18-1995; Ord. No. 1753 §1, 4-6-2004]

For purposes of this Section, roadway shall be defined as that portion of a highway or vehicular thoroughfare, typically delineated by curbing, painted boundary lines or the edge of pavement.

No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.

Section 15-49.1. (Reserved) [3]

Section 15-50. Harassment. [Ord. No. 830, §1]

(a) A person commits the crime of harassment if for the purpose of frightening or disturbing another person, such person,

(1) Communicates in writing or by telephone a threat to commit any felony; or

(2) Makes a telephone call or communicates in writing and uses coarse language, offensive to one of average sensibility; or

(3) Makes a telephone call anonymously; or

(4) Makes repeated telephone calls.

Section 15-51. Disposition of Unclaimed Seized Property — Forfeiture to the City, When — Appeal Authorized. [Ord. No. 841, §1]

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[3]. **Editor's Note — Ord. no. 2170 §1, adopted May 3, 2011, repealed section 15-49.1 "regulating sales and solicitations along roadways" in its entirety. Former section 15-49.1 derived from ord. no. 1753 §1, 4-6-2004. This section has been reserved for the city's future use.**

(a) Unless the ordinances authorizing seizure provide otherwise, property which comes into the custody of an officer or of the Municipal Court as the result of any seizure and which has not been returned to the Claimant shall be disposed of as follows:

(1) Stolen property or property acquired in any other manner declared an offense by the Code of the City of Eureka, but not including any other property referred to in Subsection (b) of this Section shall be delivered by order of Court upon claim having been made and established, to the person who is entitled to possession.

(2) The claim shall be made by written motion filed with the Court with which a Motion to Suppress has been, or may be filed. The claim shall be barred if not made within one (1) year from the date of the seizure.

(3) Upon the filing of such motion, the Judge shall order notice to be given to all persons interested in the property, including other claimants and the person in whose possession the property was seized, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons whose address is unknown by publication in a newspaper of general circulation in the county. No property shall be delivered to any claimant unless all interested persons have been given a reasonable opportunity to appear and to be heard.

(4) After a hearing, the Judge shall order the property delivered to the person or persons entitled to possession, if any. The Judge may direct that delivery of property required as evidence in a criminal proceeding shall be postponed until the need no longer exists.

(5) If the property is not claimed within one (1) year from the date of the seizure or if no one establishes a right to it, the Judge authorized to order a delivery shall, upon motion of the officer having custody of the property, or upon his own motion, order a public sale of the property. The proceeds of the sale, less necessary expenses of preservation and sale, shall be paid into the City's treasury for the use of the City. If the property is not salable, the Judge may order its destruction.

(6) If the property is a living animal or is perishable, the Judge may, at any time, order it sold at public sale. The proceeds shall be held in lieu of the property. A written description of the property sold shall be filed with the Judge making the order of sale so that the claimant may identify the property. If the proceeds are not claimed within the time limit for the claim for the property, the proceeds shall be paid into the City treasury. If the property is not salable, the Judge may order its destruction.

(b)

(1) Property, the possession of which is an offense under the laws of this City or which has been used by the owner, or used with his acquiescence or consent, as a raw material or as an instrument to manufacture or produce anything the

possession of which is an offense under the laws of this City, or which any law authorizes or directs to be seized, other than lawfully possessed weapons seized by an officer incident to an arrest, shall be forfeited to the City of Eureka.

(2) The officer who has custody of the property shall inform the Prosecuting Attorney of the fact of seizure and of the nature of the property. The Prosecuting Attorney shall thereupon file a written motion with the Court with which the Motion to Suppress has been, or may be filed praying for an order directing the forfeiture of the property. A motion may also be filed by any person claiming the right to possession of the property praying that the Court declare the property not subject to forfeiture and order to delivered to the moving party.

(3) Upon the filing of a motion either by the Prosecuting Attorney or by a Claimant, the Judge shall order notice to be given to all persons interested in the property, including the person out of whose possession the property was seized and any lienors, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons of unknown address by publication in a newspaper of general circulation in the City. Every interested person shall be given a reasonable opportunity to appear and to be heard as to the nature of his claim to the property and upon the issue of whether or not it is subject to forfeiture.

(4) If the evidence is clear and convincing that the property in issue is in fact of a kind subject to forfeiture under this Subsection, the Judge shall declare it forfeited and order its destruction or sale. The Judge shall direct that the destruction or sale of property needed as evidence in a criminal proceeding shall be postponed until this need no longer exists.

(5) If the forfeited property can be put to a lawful use, it may be ordered sold after any alterations which are necessary to adapt it to a lawful use, had been made. If there is a holder of a bona fide lien against property which has been used as a means for committing an offense or which has been used as a raw material or as an instrument to manufacture or produce anything which is an offense to possess, who establishes that the use was without his acquiescence or consent, the proceeds, less necessary expenses of preservation and sale, shall be paid to him in the amount of his lien. The remaining amount shall be paid into the City treasury.

(6) If the property is perishable the Judge may order it sold at a public sale or destroyed, as may be appropriate, prior to a hearing. The proceeds of a sale, less necessary expenses of preservation and sale, shall be held in lieu of the property.

(c) An appeal by any party shall be allowed from the judgement of the Court as in other civil actions.

Section 15-52. Public Tennis Courts to be Used for Tennis Only. [Ord. No. 1013 §1, 2-4-1992]

It shall be unlawful to engage in any activity other than tennis on any public tennis court.

Section 15-53. Smoking Prohibited. [Ord. No. 1033 §1, 8-18-1992]

(a) As used in subsections (a) to (f) of this section, the following terms mean:

OTHER PERSON IN CHARGE — The agent of the proprietor authorized to give administrative directions to and general supervision of the activities within the public place, work place or public meeting at a given time.

PROPRIETOR — The party who ultimately controls, governs or directs the activities within the public place, work place or public meeting, regardless of whether he is the owner or lessor of such site or place. The term does not mean the owner of the property unless he ultimately controls, governs or directs the activities within the public place or public meeting.

PUBLIC MEETING — A gathering in person of members of a governmental body, whether an open or closed session, as defined in Chapter 610, RSMo.

PUBLIC PROPERTY — Any real or personal property which is owned, leased or otherwise under the custody and control of a governmental body, including all City of Eureka buildings and vehicles.

SMOKING — Possession of burning tobacco in the form of a cigarette, cigar, pipe or other smoking material.

(b) It shall be unlawful for any person to smoke in a public meeting or while on or in any public property, except in a designated smoking area.

(c) A smoking area may be designated by persons having custody or control of public property, except in places in which smoking is prohibited by the fire marshall or by other law, ordinance or regulation.

(d) No public property or public meeting shall have more than thirty percent (30%) of its entire space designated as a smoking area.

(e) A designated smoking area where city employees may smoke during the work day shall be provided by each department within the confines of each city facility.

(f) The following persons shall be guilty of a violation of this section and subject to the penalties provided herein:

    (1) A person who smokes in those areas where smoking is prohibited pursuant to this section.

    (2) A proprietor or other person in charge of public property or public meeting who permits, causes or allows a person to smoke in those areas where smoking is prohibited pursuant to this section.

(g) The penalty for violation of any provision of this section shall be a fine of twenty-five dollars ($25.00) for the first offense, one hundred dollars ($100.00) for the second offense and two hundred fifty dollars ($250.00) for the third or any subsequent offense.

Section 15-53.1. Restrictions on the Sale and Possession of Tobacco Products. [Ord. No. 1033 §2, 8-18-1992; Ord. No. 1554 §1, 9-4-2001; Ord. No. 1599 §1, 3-5-2002]

(a) As used in Subsections (a) to (f) of this Section, the following terms mean:

DISTRIBUTE — A conveyance to the public by sale, barter, gift or sample.

MINOR — A person under the age of eighteen (18) years of age.

PERSON — An individual, partnership, co-partnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the local, State or Federal Government, or any other legal entity which is recognized by law as the subject of rights and duties.

PROOF OF AGE — A driver's license or other generally accepted means of identification that contains a picture of the individual and appears on its face to be valid.

ROLLING PAPERS — Paper designed, manufactured, marketed or sold for use primarily as a wrapping or enclosure for tobacco, which enables a person to roll loose tobacco into a smokable cigarette.

SAMPLE — A tobacco product distributed to members of the general public at no cost or at nominal cost for product promotional purposes.

SAMPLING — The distribution to members of the general public of tobacco product samples.

TOBACCO PRODUCTS — Any substance containing tobacco leaf including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

VENDING MACHINE — Any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens, or other form of payment, dispenses tobacco products.

(b) It shall be unlawful for any person to sell, provide or distribute tobacco products or rolling papers to persons under eighteen (18) years of age. No person or entity shall sell, provide or distribute any tobacco product or rolling papers to any minor, or sell any individual cigarettes to any person in the State of Missouri or City of Eureka, unless the product is distributed by a family member on property not open to the public. Internet and mail sales of tobacco products to any person who is less than eighteen (18) years of age is prohibited.

(c) No person less than eighteen (18) years of age shall purchase, attempt to purchase or possess cigarettes or other tobacco products, unless the product is distributed by a family member on property not open to the public and the product is possessed on the property where the product was distributed by the family member or unless such person is an employee of a seller of cigarettes or tobacco products and is in such

possession to effect a sale in the course of employment or an employee of the Missouri Division of Liquor Control or the City of Eureka Police Department for enforcement purposes. Minors will have their tobacco products confiscated. Purchasers of tobacco products are required to present prescribed identification, upon request, to demonstrate age.

(d) The owner of any business at which tobacco products or rolling papers are sold at retail shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products are sold and purchased a sign that shall:

(1) Contain in red lettering at least one-half (½) inch high on a white background the following: "It is a violation of State and City law for cigarettes or other tobacco products to be sold or otherwise provided to any person under the age of eighteen (18) or for such person to purchase, attempt to purchase or possess cigarettes or other tobacco products"; and

(2) Include a depiction of a pack of cigarettes at least two (2) inches high defaced by a red diagonal diameter of a surrounding red circle and the words "Under 18".

(e) The owner of any business on which the required signs are not posted shall be guilty of a violation of this Section and subject to the penalties provided herein.

(f) No person or entity shall sell individual packs of cigarettes or smokeless tobacco products unless it is displayed behind the check-out counter or it is within the unobstructed line of sight of the sales clerk or store attendant from the check-out counter.

(g) A person or entity selling tobacco products or rolling papers or distributing tobacco product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of eighteen (18).

(h) The operator's or chauffeur's license issued pursuant to the provisions of Section 302.177, RSMo., or the operator's or chauffeur's license issued pursuant to the laws of any state or possession of the United States to residents of those States or possessions, or an identification card as provided for in Section 302.181, RSMo., or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any agent of the Missouri Division of Liquor Control, City of Eureka Police Officer, or any owner or employee of an establishment that sells tobacco for the purpose of aiding the registrant, agent or employee to determine whether or not the person is at least eighteen (18) years of age when such person desires to purchase or possess tobacco products procured from a registrant. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

(i) Any person who shall, without authorization from the Department of Revenue, reproduce, alter, modify or misrepresent any chauffeur's license, motor vehicle

operator's license or identification card shall be deemed guilty of a class A misdemeanor.

(j) Reasonable reliance on false proof of age shall be a defense against an alleged violation of this Section. The appearance of the purchaser shall not be a defense to any alleged violation of this Section.

(k) If a sale is made by an employee of the owner of an establishment in violation of this Section, the employee shall be guilty of an offense of this Section and subject to the penalties provided herein. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense of this Section and subject to the penalties provided herein.

(l) The penalty for violation of any provision of this Section shall be a fine of twenty-five dollars ($25.00) for the first (1st) offense, one hundred dollars ($100.00) for the second (2nd) offense and two hundred fifty dollars ($250.00) for the third (3rd) and any subsequent offense.

Section 15-53.2. Vending Machine Tobacco Product Sales. [Ord. No. 1227 §1, 5-21-1996]

(a) Definitions contained in Section 15-31.1(a) shall be applicable to this Section.

(b) No vending machine may be installed for purposes of dispensing tobacco products after May 21, 1996. No vending machine in operation which does not dispense tobacco products as of May 21, 1996 may do so.

(c) A vending machine which dispenses tobacco products within the City as of May 21, 1996, may continue such legally non-conforming operation through May 21, 1998, at which time all vending machine tobacco sales within the City shall cease.

(d) A legally non-conforming vending machine which dispenses tobacco products must be located in a conspicuous location readily visible by an owner or employee on the premises containing same.

(e) A vending machine shall lose its legal non-conforming status if it is removed from the premises in which it was located May 21, 1996. If a legally non-conforming vending machine dispensing tobacco products shall discontinue doing so for any period of time prior to May 21, 1998, such legal non-conforming status shall expire and such use may not resume.

(f) The general penalty provisions of the City set forth in Section 1-7 of the Eureka Municipal Code shall apply for each violation of this Section. Each day of violation may be considered a separate offense and shall be subject to issuance of a separate citation for each offense.

Section 15-53.3. Public Schools and School Buses, Smoking or Tobacco Use Prohibited, Penalty, Permissible Use of Tobacco, Where. [Ord. No. 1778 §1, 8-17-2004]

No person shall smoke or otherwise use tobacco or tobacco products in any indoor area of a public elementary or secondary school building or educational facility, excluding institutions of higher education, or on buses used solely to transport students to or from

school or to transport students to or from any place for educational purposes. Any school board of any school district may set policy on the permissible uses of tobacco products in any other non-classroom or non-student occupant facility and on the school grounds or outdoor facility areas as the school board deems proper.

Section 15-53.4. Regulation of Vaporizing Products. [Ord. No. 2297 §1, 4-15-2014]

(a) *Definitions.* As used in this section, the following terms shall have the meanings indicated:

VAPORIZING PRODUCTS

(1) Electronic devices which employ a battery to power a heating chamber that converts a liquid solution containing tobacco-derived nicotine, through a non-combustive process, into a vapor or vapor-like mist. The definition includes electronic cigarettes, electronic cigars, electronic cigarillos and electronic pipes, which are personal vaporizing products on which users inhale through a mouthpiece.

(2) Vaporizing products are not:

a. Cigarettes, as defined in 18 U.S.C. § 2341;

b. A product that is a drug, as described in 21 U.S.C. § 321(g)(1);

c. A product that is a device, as described in 21 U.S.C. § 321(h);

d. A combination product, as described in 21 U.S.C. § 353(g);

e. A tobacco product, as described in 21 U.S.C. § 387(a); or

f. Modified risk tobacco products, as described in 21 U.S.C. § 387(k).

(b) Distribution of vaporizing products to or possession by persons under eighteen (18) years of age is prohibited.

(1) A person, either directly or indirectly by an agent or employee, or by a vending machine owned by the person or located in the person's establishment, may not sell, offer for sale, give, or furnish any vaporizing product or any component to a person under eighteen (18) years of age.

(2) Before selling, offering for sale, giving, or furnishing any vaporizing product, or any cartridge or component of any vaporizing product, to another person, the person selling, offering for sale, giving or furnishing the vaporizing product shall verify that the person is at least eighteen (18) years of age by:

a. Examining from any person that appears to be under twenty-seven (27) years of age a government-issued photographic identification that establishes the person is at least eighteen (18) years of age; or

b. For sales made through the Internet or other remote sales methods, performing an age verification through an independent, third-party age verification service that compares information available from public

records to the personal information entered by the person during the ordering process that establishes the person is eighteen (18) years of age or older.

(3) No minor under eighteen (18) years of age shall possess, purchase or attempt to purchase any vaporizing product.

a. In the furtherance or facilitation of obtaining any vaporizing product, no minor shall display or use a false or forged identification card or transfer, alter, or deface an identification card.

b. It is not a violation of these provisions for a person under eighteen (18) years of age to purchase or possess a vaporizing product if the person under the age of eighteen (18) purchases or is given the vaporizing product from a retail seller of vaporizing products or an employee of the retail seller pursuant to a plan or action to investigate, patrol, or otherwise conduct a sting operation or enforcement action against a retail seller of vaporizing products or on any premises authorized to sell vaporizing products to determine if vaporizing products are being sold or given to persons under eighteen (18) years of age if the sting operation or enforcement action is approved by the State of Missouri, St. Louis County or City of Eureka.

(c) *Use; Where Prohibited.*

(1) The use of vaporizing devices shall be prohibited where tobacco products and smoking are prohibited.

(d) *Penalties.*

(1) Any person seventeen (17) years of age or older who violates Subsection (b) or (c) of these provisions is guilty of an offense and shall be subject to the general penalty provisions contained in Chapter 1, Section 1-7 of the Eureka Municipal Code.

(2) If a minor sixteen (16) years of age or younger violates Subsection (3) of Subsection (b) or Subsection (c), he or she is guilty of an offense and the court may impose a sentence of four (4) hours of community service, a fine of twenty-five dollars ($25.00) plus court costs and/or completion of a diversion program for a first violation.

(3) A second violation by a minor sixteen (16) years of age or younger of Subsection (3) of Subsection (b) or Subsection (c) that occurs within twelve (12) months after the first violation is punishable by eight (8) hours of community service, a fine of fifty dollars ($50.00) plus court costs and/or completion of a diversion program.

(4) A third or subsequent violation by a minor sixteen (16) years of age or younger of Subsection (3) of Subsection (b) or Subsection (c) that occurs within twelve (12) months after the first violation is punishable by a fine of

one hundred dollars ($100.00) and court costs, twelve (12) hours of community service and/or completion of a diversion program.

Section 15-54. Foreign Matter on Roadways Within City Limits. [Ord. No. 1168 §1, 5-16-1995]

(a) It shall be unlawful for any person, company, contractor, subcontractor or their agents or assigns to cause dirt, mud or any other foreign material or matter to be deposited upon any roadway located within the City.

(b) In the event that such activity intentionally or unintentionally occurs, the responsible parties or their designees shall immediately remove same, restoring the roadway to its previous condition.

(c) If after serving notice to the appropriate parties, the subject roadway is not cleaned to acceptable standards within a reasonable period of time as determined by the City, the City may remove the material from the roadway or engage a third party to do same.

(d) The City shall be reimbursed by the owner or authorized developer for any outstanding fees incurred associated with said City or third party removal. An occupancy permit will not be granted until after such time that the City receives all amounts owed for these services.

ARTICLE II
Pornography

Section 15-55. Definitions. [Ord. No. 1224 §1, 4-18-1996]

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

DISPLAYS PUBLICLY — Exposing, placing, posting, exhibiting or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing if from a street, highway or public sidewalk or from the property of others.

EXPLICIT SEXUAL MATERIAL — Any pictorial or three (3) dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation of unclothed genitals, sadomasochistic abuse or emphasizing the depiction of post-pubertal human genitals; provided however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition.

FURNISH — To issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit or otherwise provide.

MATERIAL — Anything printed or written, or any picture, drawing, photograph, motion picture film or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical, electrical or electronic reproduction or anything which is or may be used as a means of communication. The term "material"

includes undeveloped photographs, molds, printing plates and other latent representational objects.

MINOR — Any person under eighteen (18) years of age.

NUDITY — The showing of post pubertal human genitalia or pubic area, with less than a fully opaque covering.

PORNOGRAPHIC — Any material or performance if, considered as a whole, applying contemporary standards:

(1) Its predominant appeal is to prurient interest in sex;

(2) It depicts or describes sexual conduct in a patently offensive way;

(3) It lacks serious literary, artistic, political or scientific value.

PROMOTE — To manufacture, issue, sell, provide, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise or to offer or agree to do same.

SADOMASOCHISTIC ABUSE — Flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

SEXUAL CONDUCT — Acts of human masturbation, deviate sexual intercourse, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or the breast of a female in an act of apparent sexual stimulation or gratification.

SEXUAL EXCITEMENT — The condition of human male or female genitals when in a state of sexual stimulation or arousal.

WHOLESALE PROMOTE — To manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate or to offer or agree to do the same for purposes of resale.

Section 15-56. Promoting Pornography. [Ord. No. 1224 §1, 4-18-1996]

A person commits the offense of promoting pornography if, knowing its content and character, he:

(1) Promotes or possesses with the purpose to promote any pornographic material for pecuniary gain; or

(2) Produces, presents, directs or participates in any pornographic performance for pecuniary gain.

Section 15-57. Furnishing Pornographic Materials to Minors. [Ord. No. 1224 §1, 4-18-1996]

A person commits the offense of furnishing pornographic materials to minors if, knowing its character and content, he:

(1) Furnishes any pornographic materials 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 pornographic performance 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.

Section 15-58. Public Display of Explicit Sexual Material. [Ord. No. 1224 §1, 4-18-1996]

A person commits the offense of public display of sexual material if he knowingly:

(1) Displays publicly explicit sexual material;

(2) Fails to take prompt action to remove such a display from property in his possession after learning of its existence.

Section 15-59. Evidence in Pornography Cases. [Ord. No. 1224 §1, 4-18-1996]

(a) In any prosecution under this Article, evidence shall be admissible to show:

(1) What the predominant appeal of the material or performance would be for ordinary adults or minors;

(2) The literary, artistic, political or scientific value of the material or performance;

(3) The degree of public acceptance in this State, County and in the local community;

(4) The appeal to prurient interest in advertising or other promotion of the material or performance;

(5) The purpose of the author, creator, promoter, furnisher or publisher of the material or performance.

(b) Testimony of the author, creator, promoter, furnisher, publisher, or expert testimony, relating to factors entering into the determination of the issues of pornography, shall be admissible.

Section 15-60. Penalty for Violation. [Ord. No. 1224 §1, 4-18-1996]

Any person found in violation of this Article shall be fined no less than one hundred dollars ($100.00), nor more than five hundred dollars ($500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each instance of violation within a twenty-four (24) hour period may be deemed a separate violation.

Section 15-61. Injunctions and Declaratory Judgments. [Ord. No. 1224 §1, 4-18-1996]

(a) Whenever material or a performance is being or is about to be promoted, furnished or displayed in violation of Sections 15-56, 15-57 or 15-58, a civil action may be

instituted in the Circuit Court by the City Attorney against any person violating or about to violate those Sections in order to obtain a declaration that the promotion, furnishing or display of such material or performance is prohibited. Such an action may also seek an injunction appropriately restraining promotion, furnishing or display.

(b) Any action brought under this Section may be brought only in the Circuit Court of the County in which any such person resides, or where the promotion, furnishing or display is taking place or is about to take place.

(c) Any promoter, furnisher or displayer of, or a person who is about to be a promoter, furnisher or displayer of the material or performance involved, may intervene as of right as a party defendant in the proceedings.

(d) The trial court and the appellate court shall give expedited consideration to actions and appeals brought under this Section. The defendant shall be entitled to a trial of the issues within one (1) day after joinder of issue and a decision shall be rendered by the court within two (2) days of the conclusion of the trial. No restraining order or injunction of any kind shall be issued restraining the promotion, furnishing or display of any material or performance without a prior adversary hearing before the court.

(e) A final declaration obtained pursuant to this Section may be used to form a basis for an injunction and for no other purpose.

(f) All laws regulating the procedure for obtaining declaratory judgments or injunctions which are inconsistent with the provisions of this Section shall be inapplicable to proceedings brought pursuant to this Section. There shall be no right to jury trial in any proceedings under this Section.

Section 15-62. Disposal of Seized and Lost Property by the Police Force. [Ord. No. 1027 §1, 6-16-1992; Ord. No. 2105 §1, 10-6-2009]

(a) All property seized and held for evidence, after final disposition of the cause in which such property was used as evidence, and all lost property in the possession of the police department, which is of such a nature that its possession or sale is unlawful, shall be destroyed under the supervision of the chief of police. If lost property in the possession of the police department is not claimed by its rightful owner within a period of ninety (90) days or if property seized or held is proven to be stolen property and the owner is unknown or the owner does not claim such property within thirty (30) days after the disposition of the cause in which the property has been used as evidence, then such property shall be sold under the supervision of the chief of police, provided that the possession or sale of such property is lawful.

(b) Such sales shall be held from time to time, as may be determined by the chief of police, and a notice thereof containing a general description of the articles to be sold shall be published in a local community newspaper.

(c) All proceeds of such sales shall be deposited in the general fund of the city.

Section 15-63. through Section 15-69. (Reserved)

ARTICLE III
Fortuneteller, Etc. — Prohibited

Section 15-70. Fortunetellers, Etc. — Prohibited. [Ord. No. 1611 §2, 5-21-2002]

No person shall pursue or practice within the City the avocation, profession or art of fortuneteller, clairvoyant, spirit medium, necromancer, seer, astrologist, palmist, prophet, or other like craft or occult art, or art of divination, or pretended art of telling past events of another's life or affairs; of foretelling knowledge of future events of another's life or affairs; or in any other way revealing things of the past, the future, of a secret or hidden nature; or giving advice or assistance in matters of business or affairs of any kind or nature by means of such art; or of purporting so to tell, foretell, reveal or give advice or assistance by means of such art; and any person who shall so pursue or practice in the City said avocations or professions, or any of them, whether for a price or gratuity, and whether by offer or on request shall be deemed guilty of a misdemeanor, and the advertising, posting or maintaining any sign, card, bill or announcement indicating the pursuit of any such avocation or art shall be sufficient evidence of a violation of this Section.

Section 15-71. Penalty for Violation. [Ord. No. 1611 §2, 5-21-2002]

Any person found in violation of this Article shall be fined no less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each instance of violation within a twenty-four (24) hour period may be deemed a separate violation.

Chapter 15A

PERSONNEL

Section 15A-1. Establishment and Application of Policies. [Ord. No. 467, Art. 1.; Ord. No. 2105 §2, 10-6-2009]

The personnel policy of the city as set out in this chapter is hereby established, which shall apply to all employees.

Section 15A-2. Purpose of Chapter. [Ord. No. 467, Art. 1]

It is the purpose of this chapter to achieve the following objectives:

(a) To promote economy and effectiveness in the personnel services rendered to the city.

(b) To establish and maintain a uniform system of regulations applying equally to all administrative employees of the city.

(c) To make city service attractive as a career and to encourage each employee to render his best service to the city.

Section 15A-3. Administration of Chapter. [Ord. No. 467, Art. 2]

The city administrator shall administer the provisions of the personnel policy.

Section 15A-4. Equal Employment, Etc., Opportunity. [Ord. No. 467, Art. 1]

The city is an equal opportunity employer. All applicants for either initial job appointment or promotion are to be given equal consideration without regard to race, creed, color, religion, sex, national origin or ancestry or political affiliation. The city recognizes that more than routine adherence to regulations is necessary to prevent employee discrimination and all supervisors and employees alike must follow the regulations both in spirit and practice in order to accomplish the intended results.

Section 15A-5. Compensation and Classification. [Ord. No. 467, Art. 1; Ord. No. 1924 §§1 — 2, 6-20-2006]

(a) Employees of the city are classified into the following three categories:

(1) *Permanent full-time*. Permanent full-time employees are those working the normal work week on a permanent basis. These employees are eligible for the entire fringe benefit package.

(2) *Permanent part-time.* Permanent part-time employees are those working less than forty hours per week on a permanent basis. These employees are not eligible for the fringe benefit program.

(3) *Seasonal, temporary or part-time.* Seasonal, temporary or part-time employees are those who are employed by the city for a limited period of time, whether full-time or part-time. These employees are not eligible for the fringe benefits program.

(b) Each employee working for the city will be assigned a job title or any combination of titles. For each job title a job description shall be provided which shall state briefly the basic purpose of the job, level of difficulty and responsibility, examples of duties and supervision given. The city administrator shall develop and revise job descriptions and titles as needed.

(b) The following is a list of present job titles now in use, for which each present employee shall be provided a copy of the job description for their review:

(1) Building inspector.

(2) City administrator.

(3) City clerk.

(4) Clerk-typist.

(5) Court clerk.

(6) Maintenance supervisor.

(7) Public works laborer.

(8) Street commissioner.

(9) Street laborer.

(10) Treasurer.

(11) Water and sewer commissioner.

(12) Account clerk.

(13) Any combination of the above.

Applicants for new or replacement positions shall be afforded the opportunity to review the job description for the job being applied for.

(c) Employees' wages and salaries are subject to review at the time of their annual performance review by the city administrator.

(d) City employees working in excess of forty hours in any one week will receive overtime pay at the rate of one and one-half times their normal rate of pay for each hour of overtime worked. All overtime hours shall be approved by the city administrator.

Section 15A-6. Appointments and Promotions Generally. [Ord. No. 467, Art. 1]

Appointments and promotions to all positions shall be solely on the basis of merit, which shall be determined by evaluation of the applicant's training, education, experience, physical fitness, oral interview results and, whenever practical, an examination or demonstration test. This evaluation is to be determined by the city administrator.

Section 15A-7. (Reserved) [1]

Section 15A-8. Performance Review. [Ord. No. 467, Art. 1.; Ord. No. 2119 §1, 5-4-2010]

Employee performance may be reviewed periodically by the city administrator, department heads or supervisors. This review may include ratings of the employee's dependability, quality of work, leadership potential, knowledge of job, judgment and other criteria deemed appropriate for the position classification being reviewed. The results of this review may be used in making decisions such as promotions, severance, pay raises, disciplinary action and other matters. In no event shall a performance review be required.

Section 15A-9. Conduct Generally. [Ord. No. 467, Art. 1]

It shall be the duty of each employee to maintain high standards of conduct, cooperation, efficiency, and economy in their work for the city. Whenever work habits, attitude, production or personal conduct of any employee falls below a desirable standard, supervisors should point out the deficiencies at the time they are observed. Whenever possible, oral or written warnings with sufficient time for improvement shall precede formal discipline.

Section 15A-10. Outside Employment. [Ord. No. 467, Art. 1]

No full time employee in the classified service shall accept outside employment, whether part-time, temporary or permanent, without prior written approval from the city administrator. Each change in outside employment shall require separate approval. Approval shall not be granted when such outside employment conflicts or interferes with the employee's municipal service. Employees may not engage in any private business or activity while on city duty.

Section 15A-11. through Section 15A-13. (Reserved) [2]

Section 15A-14. Work Week. [Ord. No. 467, Art. 1.; Ord. No. 2105 §4, 10-6-2009]

The normal work week for the city shall be considered to be forty (40) hours per week constituted by eight (8) hours of work a day for five (5) days in the work week, with the

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1. **Editor's Note: Former Section 15A-7, Probationary Period, adopted and amended by Ord. No. 467, §1, and 10-6-2009 by §3 of Ord. No. 2105, was repealed 10-15-2013 by §1 of Ord. No. 2276.**

2. **Editor's Note: Former Section 15A-11, Discipline Generally, adopted by Ord. No. 467, Art. 1, former Section 15A-12, Grounds for Suspension, Demotion, etc., adopted and amended by Ord. No. 467, Art. 1, and Ord. No. 625, §1, and former Section 15A-13, Grievances, adopted by Ord. No. 467, Art. 1, were repealed 10-15-2013 by §1 of Ord. No. 2276.**

exception of the police department which may establish a different schedule with the same number of annual hours as other position classifications, as approved by the board of aldermen or city administrator.

Section 15A-15. Injuries on the Job. [Ord. No. 467, Art. 1]

Any employee injured in the performance of his or her job must report all such injuries immediately to his or her immediate supervisor or the city administrator.

Section 15A-16. Holidays. [Ord. No. 467, Art. 1; Ord. No. 943 §1]

(a) All permanent full-time employees of the city shall receive normal compensation for the holidays listed below and any other day or part of a day during which the public offices of the city shall be closed by special proclamation of the mayor with approval of the city council.

(b) Holidays to be observed are:

(1) New Year's Day — January 1.

(2) Martin Luther King Day — Third Monday in January.

(3) Washington's Birthday — February 22.

(4) Memorial Day — Last Monday in May.

(5) Independence Day — July 4.

(6) Labor Day — First Monday in September.

(7) Veterans' Day — Last Monday in October.

(8) Thanksgiving Day — Last Thursday in November.

(9) Christmas Day — December 25.

(10) One floating holiday — To be determined annually by the city administrator.

(c) All holidays shall be observed on the day in compliance with federal laws, when applicable.

Section 15A-17. Vacation Leave. [Ord. No. 467, Art. 1.; Ord. No. 1924 §§1 — 2, 6-20-2006; Ord. No. 2057 §1, 8-19-2008; Ord. No. 2069 §1, 11-18-2008]

(a) It is the intention of the city that employees be provided vacations from their jobs, as it is beneficial to both the city and the employee through better production and effort after experiencing a rest from everyday duties.

(b) Each permanent full-time employee will earn vacation time for each full month of employment computed from the first (1st) full calendar month of employment. Credit is given for full calendar months of employment only, not for portions.

(c) Permanent full-time employees shall earn two weeks of vacation after twelve full calendar months of service; three weeks of vacation after sixty full calendar months or five years; and four weeks of vacation after two hundred forty full calendar months or twenty years.

(d) All vacation time must be approved by the city administrator before it is taken and arrangements should be made to cause the least disruption to the city's work.

(e) Sundays or any weekdays designated as an official holiday or special holiday will not be counted as a debit toward vacation time taken, should the vacation period include such a day.

(f) An accurate record of vacation credits earned and vacation time taken shall be maintained for each employee by the city clerk.

(g) In the case of resignation or discharge, compensation for any unused portion of vacation time accredited to the employee is at the discretion of the city administrator, but in no case can it exceed the authorized maximum accumulated credits permitted in accordance with the length of service. Payment will be made at the current salary or hourly rate.

(h) In the event of death of an employee, compensation for any unused vacation time accredited to the employee's records shall be paid to the employee's designated beneficiary or to his or her estate. In no case can it exceed the authorized maximum accumulated credits permitted in accordance with the length of service. Payment will be made at the current salary or hourly rate.

(i) In lieu of receiving a lump sum payment for any unused vacation time, a retiring employee may request that their accumulated vacation time be exhausted, with their official retirement date being reflected as the date all such accumulated vacation time is exhausted. No additional vacation or sick time will accrue during the term the retiring employee is exhausting their accumulated vacation time, nor shall any such retiring employee be eligible to receive annual raises, holiday pay, year end earned compensation, sick time incentives or sick time compensation.

Section 15A-18. Sick Leave. [Ord. No. 467, Art. 1]

(a) Each permanent full-time employee earns sick leave credits at the rate of one day per month for each full month of employment computed from the first full calendar month of employment. Credit is given for full calendar months of employment only, not for portions.

(b) Each full time employee is permitted to accumulate sick leave credits up to sixty days.

(c) Sick leave with pay is granted when earned to full-time employees during periods of their absence from work in the event of their actual personal illness, injury or pregnancy. The employee shall be required to furnish proof, through doctor's statements, in writing, in order to receive paid sick leave if the sick leave taken is three consecutive days or more.

(d) Sick leave will be granted because of pregnancy when requested by the employee or when the employee becomes unable to effectively perform her duties, when accompanied by a statement from her physician certifying pregnancy. The employee is expected to return to work upon receiving medical release from her physician.

(e) Sunday or any weekday designated as an official holiday or special holiday will not be counted as a debit toward paid sick leave used, should the employee's absence include such a day. In the case where employees are on authorized sick leave for five consecutive working days a doctor's clearance or release must be presented to the city administrator prior to resuming work. The city administrator may require a doctor's examination in questionable cases, at the expense of the city.

(f) An accurate record of sick leave credit earned and sick leave used shall be maintained for each full-time employee by the city clerk.

(g) At termination of employment all accumulated sick leave shall be forfeited.

Section 15A-19. Miscellaneous Leaves. [Ord. No. 467, Art. 1; Ord. No. 625, §2]

(a) *Sickness in immediate family.* Authorized absence from work resulting from serious illness in the immediate family which requires the employee's presence may be charged to the employee's accumulated, unused sick leave. The employee may be required to provide proof that the absence required his or her personal attention and care.

(a) The authorized absence chargeable to the employee's accumulated sick leave cannot exceed four consecutive days for any one illness. If additional time is needed, the excess above four days shall be charged to vacation accredited to the employee's record. If the employee has no sick leave or vacation credits, the city administrator may grant additional necessary time without pay not to exceed ten working days.

(a) In the event of maternity situations, the employee will be permitted authorized absence chargeable to his accumulated sick leave to admit his spouse to the hospital and await the birth of the child and authorized absence charged to his accumulated sick leave to obtain release of his wife and child from the hospital and return to his home. If other arrangements cannot be made during the interim and the employee must be off work to care for other children in the home during or after the wife's hospitalization, the absence is charged to his earned vacation.

(a) The immediate family, for the purpose of this policy, is defined as first degree relatives (mother, father, son, daughter, sister, brother, husband and wife) or member of immediate household.

(b) *Funeral leave.* If the deceased is an immediate member of the family, the employee may be granted paid time off, not exceeding three work days to arrange for or attend the funeral. In the event that the deceased's residence or interment is far removed from the employee's residence, the city administrator may specify the length of paid time to be allowed.

(b) The immediate family, for the purposes of this subsection, is defined as mother, mother-in-law, father, father-in-law, son, daughter, sister, brother, husband and wife or member of immediate household.

(b) If the deceased is a relative other than above or a close personal friend, the employee may be granted paid time off to attend the funeral not exceeding one-half work day.

(b) If the employee is requested to take part in any funeral services, only the paid time off, sufficient to properly perform the duties, will be allowed.

(c) *Unauthorized absence from work.* Any employee absent from work for five consecutive working days, without authorization, shall be deemed to have vacated his or her job.

(c) The city will proceed to staff the vacated position after five consecutive working days of unauthorized absence.

(c) No payment of wage or salary will be made for unauthorized absence.

(c) Employees terminated under this policy shall forfeit all accumulated sick leave and vacation credits without pay.

Section 15A-20. Health Insurance. [Ord. No. 467, Art. 1]

The city provides health insurance for its permanent full-time employees. The city pays one hundred percent of the policy costs for the employee. Coverage for the employee's dependents is available at cost to the employee.

Section 15A-21. Life Insurance. [Ord. No. 467, Art. 1]

The city provides life insurance for its permanent full-time employees with the city, paying one hundred percent of the costs of the policy.

Section 15A-22. Retirement and Pension Benefits. [Ord. No. 467, Art. 1]

The city provides retirement and pension benefits for its permanent full-time employees through the LAGERS program.

Section 15A-23. Tuition Reimbursement Program. [Ord. No. 467 Art. 1; Ord. No. 1537 §1, 7-17-2001]

(a) *Overview.* It is the policy of the City to encourage employees to increase their skills and level of education to improve their job performance, further their potential for higher level positions, and for the overall betterment of the City in helping to develop relevant knowledge and experiences which can favorably impact the expertise and efficiency with which the employee performs his or her duties and responsibilities.

(a) Only courses from accredited traditional and non-traditional educational institutions including technical/vocational schools are eligible for tuition reimbursement

without special consideration. Classes and courses of instruction other than undergraduate and graduate college course work may receive consideration for tuition reimbursement. Such requests will be considered on an individual basis.

(a) Only regular full-time employees are eligible for educational assistance from the City. The City will reimburse tuition costs only. Other fees and related expenses are not eligible for reimbursement. The City will only consider reimbursement requests, and will not give consideration to the advancement of funds.

(a) Tuition shall be reimbursed at the actual per credit hour rate or the latest University of Missouri-St. Louis rate, whichever is lower.

(b) *Request Submission.* An employee requesting to receive consideration for tuition reimbursement must first complete a "Request for Tuition Reimbursement Form". Such form shall include at a minimum the following:

(1) The name(s) and description of the course(s) proposed to be taken;

(2) The employee's declared major;

(3) The relevance of the employee's major and proposed course work to their position classification and the benefits the City will derive from the employee taking the course(s);

(4) The name of the educational institution; and

(5) The cost per credit hour of the proposed course work.

The completed Request for Tuition Reimbursement Form shall be approved by the employee's supervisor and department head as applicable and then directed to the City Administrator for consideration. The Request for Tuition Reimbursement Form must be approved by the City Administrator prior to the completion of the proposed courses to be eligible for consideration.

(c) *Request Consideration.* In giving consideration to the tuition reimbursement request, the City Administrator shall review the following criteria:

(1) The relevance of the employee's major and/or proposed course work to their position classification.

(2) The manner in which the City would benefit from the employee taking the course(s).

(3) Available funds, both the appropriation budgeted for City-wide tuition reimbursement, as well as the overall City budget. Tuition reimbursement requests are considered in the order received, and if the overall appropriation in a particular fiscal year is depleted, this alone may be a basis for denial even if all other criteria are generally satisfied. Circumstances may also arise which could result in budget transfers which may lower initial tuition reimbursement budgetary appropriations.

The City Administrator shall indicate approval or denial of the request on the form and return same to the employee.

(d) *Reimbursement.* The City will reimburse employees only for courses which have been satisfactorily completed. Satisfactory completion shall be a grade of "C" or better (or "pass" under the pass/fail system) for undergraduate courses, and a grade of "B" or better for graduate courses.

(d) Following receipt of grades from satisfactorily completed courses, to receive reimbursement the employee must submit to the City Administrator:

(1) A copy of their report card evidencing satisfactory completion of the course(s),

(2) A copy of their paid receipt for the tuition cost incurred, and

(3) A copy of their previously approved Request for Tuition Reimbursement Form.

The City Administrator shall then forward same to the accounting personnel for reimbursement processing and payment.

(e) *Recovery Of Tuition Reimbursement Costs.* By applying for tuition reimbursement under this program, the employee acknowledges and agrees that if they choose to leave the City's employment, they shall be required to reimburse the City for all tuition reimbursement received during their twelve (12) previous months of employment. The City reserves the right to withhold part or all of the employee's final paycheck toward such recovery and/or may give consideration to extending installment repayment terms to the employee.

(f) *Additional Provisions.* No employee may request more than one thousand five hundred dollars ($1,500.00) in tuition reimbursement in a single fiscal year (July first (1st) through June thirtieth (30th)).

(f) Any denials of tuition reimbursement requests may be appealed to the City's Personnel Committee for consideration.

(f) Class attendance or any other activities related to course work shall be on the employee's own time and may not interfere with normal work hours, nor with the performance of the employee's normal duties and responsibilities.

(f) Additional provisions pertaining to the regulation and administration of the City's tuition reimbursement may be adopted administratively as deemed necessary.[3]

Section 15A-24. Additional Rules and Regulations. [Ord. No. 2105 §5, 10-6-2009]

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[3]. **Editor's Note: Former Section 15A-24, Additional Rules and Regulations, adopted 10-6-2009 by §1 of Ord. No. 2105, which immediately followed this section, was repealed 10-15-2013 by §1 of Ord. No. 2276.**

Department and/or position classification specific rules and regulations may be adopted and amended as approved by the board of aldermen or city administrator provided such are not in conflict with any provisions of this chapter.

Chapter 15B

(RESERVED)

Editor's Note — Ord. no. 2105 §1, adopted October 6, 2009, repealed ch. 15B "police department rules and regulations" in its entirety with the exception of section 15B-5 which has been renumbered as 15-62. Former ch. 15B derived from ord. no. 850; ord. no. 864 §1; ord. no. 943 §2; ord. no. 2102 §§1 — 3, 9-15-2009. At the editor's discretion, this chapter has been reserved for the city's future use.

Chapter 16

PLUMBING

§ 16-1. "Plumbing Device" Defined. [Ord. No. 66]

For the purpose of this chapter, "plumbing device" includes drains, sewers, septic tanks, absorption trenches, gas fittings, plumbing apparatus, fixtures and attachments.

§ 16-2. (Reserved) [Repealed by Ordinance No. 555]

§ 16-3. Plumbing Permit — Required. [Ord. No. 66, §10; Ord. No. 322, §1; Ord. No. 616, §1; Ord. No. 2032 §2, 3-5-2008; Ord. No. 2051 §1, 8-5-2008]

(a) No person shall repair or install any plumbing device in the City without first having obtained a plumbing permit, with the exception of residential water heaters which may follow the procedure set forth in Subsection (b) below. The fee for issuance of a permit under this Section shall be ten dollars ($10.00). This fee shall be in addition to any inspection fees required under this Chapter. This fee shall be adjusted on an annual basis, effective January first (1st) of the year in question, to reflect increases, if any, in the November offering next preceding this January first (1st) of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty-cent ($.50) figure and shall not be further adjusted during the course of the year in question until the following January first (1st) of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

(b) In the case of a proposed residential water heater installation, the owner or occupant of the subject residential property may apply for a City plumbing permit on behalf of the contractor. Said application and any associated inspection requests must be received by the City within seventy-two (72) hours of the water heater installation.

§ 16-4. Same — Not to Cover Street Excavations. [Ord. No. 66, §11]

No plumbing permit shall be issued to excavate or undermine any part of any public or private street in the city.

§ 16-5. Standards Generally. [Ord. No. 66 §3; Ord. No. 1167 §§1 — 3, 5-16-1995]

(a) All plumbing materials and all plumbing devices and materials shall conform to the minimum standards and requirements of the State of Missouri, St. Louis County Health Department and the City of Eureka.

(b) All water systems shall be designed so as to provide normal working pressure in the distribution system of no less than fifty (50) pounds per square inch (psi).

§ 16-6. County Rules and Regulations Adopted. [Ord. No. 66, §9; Ord. No. 1406 §1, 5-18-1999]

The rules and regulations governing plumbing installations, drains, drain laying and plumbing devices in the City shall be the rules and regulations promulgated and adopted by the County, pursuant to the laws of the County and the State, with the exception of the following water service line sizing criteria:

The following criteria will be used in sizing water service lines serving single-family dwellings:

1" service line - up to 3½ bath (27 g.p.m. maximum)
1¼" service line - more than 3½ to 6 baths (34.8 g.p.m. maximum)
1½" service line - more than 6 baths.
Roughed-in fixtures shall be included in the count.

Additional consideration must be given to high-flow fittings, fixtures and systems such as roman type tub fillers, pressure canister water closets and lawn irrigation systems. Manufacturers' and designers' calculated demand should be determined and added to the demand of the water supply system. If this total demand exceeds the maximum g.p.m. demand indicated above for any specific installation, the service line size must be increased to a size which will accommodate the maximum total demand. The water meter size will be determined by the service line size requirement. The meter shall be the same size as the service line or larger.

§ 16-7. Notification of Plumbing Inspector as to Completion of Work. [Ord. No. 66, §6]

Upon the completion of any plumbing work it shall be the duty of the person doing such work to notify the Plumbing Inspector twenty-four (24) hours in advance of the desired inspection.

§ 16-8. Certificate of Satisfactory Inspection. [Ord. No. 66, §7]

Upon final approval of any plumbing work, a certificate of satisfactory inspection shall be issued, which shall contain the date of such inspection and outline the results of such inspection. It is provided, however, that no such certificate shall be issued until all of the provisions of this Chapter shall have been strictly complied with.

§ 16-9. Authority of Plumbing Inspector to Disconnect Improperly Installed Plumbing. [Ord. No. 66, §4]

The plumbing inspector shall have the power and authority to disconnect any plumbing or plumbing device which has been installed, set up or connected, in violation of the provisions of this chapter, and may prohibit the use thereof by notice posted in a conspicuous place on the premises.

§ 16-10. Inspection Fees — Schedule. [Ord. No. 66 §5; Ord. No. 322 §2; Ord. No. 409 §1; Ord. No. 411 §1; Ord. No. 616 §1.; Ord. No. 1073 §3, 10-5-1993]

The inspection fee as required by the following schedule shall be paid:

Laying of water mains	$17.00 per hour
Minimum fee	$17.00 per hour
Building water pipe connections	$5.00
Building water pipe repairs	$5.00
Main sewer pipe repairs	$5.00
Main sewer pipe installation or extension	$17.00
Minimum fee	$17.00
Building sewer connections	$5.00
Building sewer pipe repairs	$5.00
Rough-in inspection	$5.00
Final (finish) inspection	$5.00
Septic Tank	$5.00
Investigations	$5.00
Filter bed inspections	$5.00
Extra inspections, each	$5.00
Hot water tank inspection or replacement	$5.00

In addition to these fees a charge of five dollars will be made for each fixture installed, or for which openings have been provided.

All inspection fees shall be paid to the city.

These fees shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967-100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty-cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further

adjustments, if warranted as provided herein, shall be made.

§ 16-10.1. Reinspection Charge. [Ord. No. 1073 §4, 10-5-1993; Ord. No. 2149 §7, 12-7-2010]

(a) There is hereby established a reinspection charge of twenty dollars ($20.00), which shall be applicable to plumbing reinspections, where it has been determined that the initial inspection resulted in a failure to comply with the applicable construction code. The permit applicant shall be responsible for the payment of such reinspection charge which shall be payable within thirty (30) days of the inspection, after which such charge shall be considered overdue. No permits shall be issued to an applicant who has not remitted payment to the City for any overdue reinspection charges.

(b) All assessed reinspection fees must be paid prior to the request for a final inspection.

§ 16-10.2. Doubling. [Ord. No. 2149 §8, 12-7-2010]

The permit fees provided for in Section 16-10 above shall be doubled where work for which a plumbing permit is required in Section 16-3 is commenced prior to obtaining the permit or filing of the application. The payment of such double fees shall not relieve any person from fully complying with all provisions regulating such construction.

§ 16-11. Same — Payment; Disposition. [Ord. No. 66, §8; Ord. No. 322, §3]

All fees and inspection charges shall be payable in advance to the city, and shall be deposited by the city treasurer in the general revenue fund of the city.

§ 16-12. Appointment, Duties and Compensation of Plumbing Inspector. [Ord. No. 66, §12; Ord. No. 322, §4]

The mayor with the approval of the board of aldermen shall appoint during the month of May of each year a plumbing inspector to serve for a term of one year.

The duties of the plumbing inspector shall be as follows:

(a) To make inspections within twenty-four hours after application therefor is made, and report each such inspection made to the city clerk on forms supplied by the city.

(b) To approve all plumbing devices and installations within the city; provided, that whenever in the judgment of the plumbing inspector, such are found defective, improper or insufficient, or for any other cause shall fail to pass the inspection, he shall cause the immediate removal of such defects.

(c) The plumbing inspector shall have the right at any and all reasonable times to enter upon any lands, buildings or other places in the discharge of his official duties, and shall, after application is made to the firm or person in possession of such property, be given prompt access to such property.

(d) The plumbing inspector shall make a report to the proper city official when requested to do so, and furnish such information as may be required.

(e) The plumbing inspector shall have such other powers, duties and privileges as are, or may be granted or prescribed by the laws of the state or this Code or other ordinances of the city.

(f) The plumbing inspector shall be entitled to compensation from the city for his services as such, payable monthly, based upon the following:

One-third of the inspection fees collected by the city for plumbing inspections on single-family residences, duplexes and commercial buildings other than hotels and motels;

One-fourth of the inspection fees collected by the city for plumbing inspections made on multiple-family buildings, including hotels, motels and the like.

§ 16-13. Exemptions as to Franchise Utilities. [Ord. No. 66, §16]

The provisions of this chapter with reference to permits and inspections shall not apply to utility companies operating under any ordinance granting such utility a franchise.

§ 16-14. Enforcement of Chapter Generally. [Ord. No. 66, §13]

The city building commissioner shall be charged with the responsibility of carrying out the provisions of this chapter, or the board of aldermen of the city may contract with and authorize the office of plumbing and sewer inspection of the county to issue permits and perform such other duties as are required under this chapter.

§ 16-15. Duties of Police. [Ord. No. 66, §15]

All police officers in the city shall report to the building commissioner or to the plumbing inspector any violation of the provisions of this chapter and shall execute the orders of the building commissioner or the plumbing inspector relative to the suspension of any work on any property.

Chapter 17

POLICE

ARTICLE I
In General

§ 17-1. Contract for Police Radio Service. [Ord. No. 84, §1]

The Mayor is hereby authorized to enter into a contract with the county for the furnishing of police radio services to the City Police Department, upon such terms and conditions as approved by the Board of Aldermen.

§ 17-2. Appointment of Policemen. [Ord. No. 13, §3]

There shall be appointed by the Mayor on the recommendation of the marshal, and subject to the approval of the Board of Aldermen, such police as may from time to time be determined to be necessary for the proper and efficient policing of the City.

§ 17-3. Duties of Policemen Generally. [Ord. No. 13, §7]

It is expressly made the duty of all police of the City to acquaint themselves and to be familiar with the provisions of this Code and other ordinances. They shall be alert at all times and detect obstructions and defects in any street or other public place, the maintenance of any nuisance, the construction or alteration of any building or other activity where a permit or a license is required by this Code, traffic violations, violation of liquor laws, disturbances of peace or disorderly conduct. They shall make arrests as by law and ordinance provided and report violations to the marshal, who shall in proper cases promptly report the matter reported to the proper department of the City government.

§ 17-3.1. Adoption of Official Regulations.

See Chapter 15B for Police Department Regulations.

ARTICLE II
Police Officer Response Outside Jurisdiction

§ 17-4. Authority of Police Officers to Respond in Emergencies Outside Jurisdiction, Emergency Situation Defined. [Ord. No. 845, §1-6]

(a) Any police officer of the City of Eureka who has completed the basic police training program as established by Chapter 590 RSMo. shall have the authority to respond to an emergency situation outside the boundaries of the City.

(b) No police officer shall be required by reason of this Article to leave the jurisdiction to respond to an emergency situation, but said police officer shall use his said discretion and judgement as to leaving the City to respond to any emergency situation. It shall be the policy of the City that said police officer shall not leave the City inhabitants with inadequate police protection or be absent for extended periods of time, but that the response shall be in aide of and to assist the authorities of the County or the Municipality in which the emergency situation is located. No police officer of the City shall be authorized to make an arrest by reason of this authorization to respond, nor shall be be authorized to use his weapon except to protect himself or to effectuate an arrest for a serious felony endangering the lives or threatening serious property damage to one or more persons in the area.

(c) The authority contained herein shall permit the response by one or more City police officers in an area surrounding this Municipality or within a radius of thirty miles. The Chief of the Police Department, in his discretion, may authorize additional response beyond this area.

(d) Every response to an emergency situation outside the City shall be reported by the Chief of Police to the Mayor, with an explanation for the reason for the response.

(e) As used herein, the term "emergency situation" means any unforeseen combination of circumstances or events involving danger or imminent danger to human life or property which requires immediate action, including, but not limited to, an automobile accident, civil disturbance, serious accident or criminal action.

(f) For purposes of this Article, the masculine form shall include the feminine, there being no intent to differentiate or discriminate with respect to sex or gender.

§ 17-5. through Section 17-8. (Reserved)

ARTICLE III
Eureka Reserve Police Unit

§ 17-9. Established. [Ord. No. 459, §1]

There is hereby established a special reserve police force to be known as the Eureka Reserve Police Unit.

§ 17-10. Officers. [Ord. No. 459, §2]

The Board of Aldermen shall appoint the officers of the Eureka Reserve Police Unit, who shall serve at the will of the Board of Aldermen upon recommendation of the Chief of Police and shall serve at the direction of the Chief of Police.

§ 17-11. Rules, Procedures, Etc. [Ord. No. 459, §3]

The Chief of Police is hereby authorized to establish procedures, rules, regulations and minimum training requirements with respect to the officers of the Eureka Reserve Police Unit.

§ 17-12. Oath of Office; Uniforms, Shields, Etc. [Ord. No. 459, §4]

Officers of the Eureka Reserve Police Unit shall take an oath of office following their appointment and shall wear a uniform and shield or badge similar to those worn by officers of the city's regular police force.

§ 17-13. Assistance to City Police Officers. [Ord. No. 459, §5]

Officers of the Eureka Reserve Police Unit shall assist the officers of the city's police force in the discharge of their duties.

§ 17-14. Supervision. [Ord. No. 459, §6]

Officers of the Eureka Reserve Police Unit shall be under and subject to the orders of the Chief of Police and other officers of the regular police force of the City.

§ 17-15. Equipment; Authority Generally. [Ord. No. 459, §7; Ord. No. 479, §1]

Officers of the Eureka Reserve Police Unit shall, while on duty and in uniform, be authorized to carry side arms and the other equipment used by officers of the regular police force.

§ 17-16. Compensation and Costs. [Ord. No. 459, §8.; Ord. No. 1152 §§1 — 2, 3-7-1995]

Officers of the Eureka Reserve Police Unit shall receive no monetary compensation for the discharge of their duties. The City shall provide uniforms, weapons and equipment for such reserve police officers as is deemed necessary by the Eureka Chief of Police.

Chapter 18

REFUSE, GARBAGE AND WEEDS

ARTICLE I
In General

§ 18-1. Removal of Weeds Creating Nuisance. [Ord. No. 862, §1.; Ord. No. 2058 §§1 — 3, 8-19-2008]

(a) *Weeds on certain property declared a nuisance.* All noxious weeds or vegetation, including but not limited to Russian, Canadian, or common thistle, wild lettuce, wild mustard, wild parsley, ragweed, milkweed, ironweed, poisonous plants or shrubs which have attained a height of twelve inches or more, growing or existing upon any lot or lands within the City, with the exception of lands used for farming or gardening purposes at the time of such growth, are hereby declared a public nuisance and prohibited.

(b) *Weeds — destruction thereof.* Every owner, occupant or person in control of any property described in subsection (a), shall cause that property to be kept free from such noxious weeds or vegetation by destroying them by spraying with a chemical compound, approved by the Building Commissioner or his duly authorized agent, or by cutting or digging under, or any other method approved by the Building Commissioner or his duly authorized agent.

(c) *Weeds — disposal thereof.* All debris of any and all kinds and varieties, including but not limited to weed cuttings, shall be removed from the property within a reasonable period of time after being cut.

(d) *Enforcement, by whom.* It should be the duty of the Building Commissioner or his duly authorized agent to enforce the provisions of this section.

(e) *Notice of violation.* When the Building Commissioner or his duly authorized agent ascertains that noxious weeds and vegetation as set forth herein are growing on any property as described herein, he may cause a notice to be directed to the owner, occupant or other person in control of such lot or land where noxious weeds or other vegetation are growing thereon that the noxious weeds or vegetation must be destroyed by any of the methods set forth herein and that such destruction must begin and be completed within seven (7) calendar days from notification of said violation as provided in this Section, except in the case of conditions set forth in Subsection (k) of this Section. The notice to the owner, occupant or other person in control of such lot or land shall be served in any one (1) of the following ways:

(1) By causing said notice to be delivered to such owner, agent, occupant or other person in control.

(2) By posting a copy of such notice upon the property in question, said notice to be deemed served at the end of twenty-four (24) hours after the posting thereof.

(3) By mail of such notice or copy thereof by priority mail enclosed in a sealed envelope postage prepaid, directed to such owner or other person in control of said property, either at his/her place of business or residence or elsewhere, said notice to be deemed served twenty-four (24) hours after the mailing of said notice in case it is directed to the business or resident address of the owner or other person in control of said property, provided that if the said owner and owners or other person in control of said property be non-residents of St. Louis County and have no business addresses or offices in St. Louis County, and then the said notice shall be deemed served at the end of such period of the mailing thereof as in the ordinary course of the transmission of the mail by the United States Postal Service would be required, for the receipt of said notice by the owner and owners or other person in control of said land at their place of residence or business.

(f) *Weeds — destruction by City or authorized agent.* If the owner, agent, occupant or other person in control of any lot or land mentioned herein fails to comply with such notice, the Building Commissioner or his duly authorized agent shall cause such noxious weeds to be destroyed by one (1) of the methods set forth herein. The Building Commissioner or his duly authorized agent shall have the right to enter upon the property on which noxious weeds are growing for the purpose of enforcing this section, and may use any suitable means or assistance for the purpose of destroying such weeds as described herein including the letting of contracts for the aforesaid work to be done by private persons, firms or corporations.

(g) *Penalties.* Any owner, agent, occupant, or person in control of any property described in section 619.010 who shall violate or fail to comply with any provisions of this section, including failure to comply with the notice as described herein shall upon conviction be fined not more than two hundred dollars ($200.00), or be imprisoned for a term not to exceed thirty (30) days, or by the fine and imprisonment. Each day of such violation shall constitute a separate offense as to each separate lot or tract of ground owned or controlled by such owner, agent, occupant or person.

(h) *Destruction by City, Building Commissioner to certify to the City Treasurer.* Upon the completion of the destruction of such noxious weeds or vegetation by the Building Commissioner, or by a person, firm or corporation authorized by contract, the Building Commissioner or his duly authorized agent shall cause the total cost of such repair to be determined and certify the same to the City Treasurer.

(i) *Destruction by City, assessment as special tax.* Upon approval of such report by the City Treasurer, the report with the approval of the Treasurer endorsed thereon, shall be assessed as a special assessed tax against each lot or parcel of ground chargeable therewith, in the name or names of the owner or owners thereof.

(j) *Collector — Attorney to collect by suit.* All such special tax bills issued for cutting and removing such noxious weeds or vegetation shall be collectable by suit brought by the City Attorney in the name of the City. Such special tax bills and any action thereon, shall be prima facie evidence of the regularity of the proceedings for such special assessment, the validity of the bill, the doing of the work, and of the furnishing of the materials charged for, and of the liability of the property to the charge stated in the bill, including the costs of bringing the action as part of the cost in cutting and removing such noxious weeds or vegetation. Each said special tax bill shall include a charge of ten dollars ($10.00) for inspecting the same and giving notice, and a further charge of five dollars ($5.00) for issuing and recording the tax bill. Such tax bill if not paid within thirty (30) days after issuance shall bear interest at the rate of eight percent (8%) per annum.

(k) If a notice of violation under this Section has been directed to the owner, occupant, agent or person in control of a property in a single calendar year, no subsequent notices are required to be given and all penalties may be immediately imposed and all City remedies may immediately be taken.

§ 18-2. Procedures for Handling High Weeds, Grass and Vegetable Growth. [Ord. No. 993 §§1 — 4, 7-2-1991; Ord. No. 1172 §1, 6-6-1995; Ord. No. 1471 §1, 8-1-2000; Ord. No. 2058 §§4 — 7, 8-19-2008]

(a) *High weeds, high grass, and rank vegetable growth prohibited.* No person, whether owner, lessee, or occupant, having control or use of any property or any part of any property, shall cause or permit on any such property the growth of weeds, grass, or vegetable growths to attain a height in excess of twelve (12) inches, with the exception of lands used for farming or gardening purposes at the time of such growth.

(a) Whenever private property abuts a public right-of-way or easement and there exists in such right-of-way or easement a tree lawn or grassy area between the private property line and the edge of the street pavement, then such tree, lawn or grassy area shall be considered, for purposes of this Section, to be a part of the private lot which abuts the right-of-way or easement, and it shall be the duty of those responsible under this Section for the maintenance of the private lot to equally maintain the tree, lawn or grassy area within the abutting right-of-way or easement.

(b) *Notice to owner, lessee or occupant to trim or remove.* Wherever weeds, grass or vegetable growths in violation of this Section are found to exist on any property, the Chief of Police or his designated representative shall notify, in writing, the owner, lessee or occupant of such property to abate the violation within seven (7) days, except in the case of conditions set forth in Subsection (e) of this Section. If, after seven (7) days from the date of such notice, the weeds, grass or vegetable growths remain in excess of twelve (12) inches in height, then the Police Chief or his designated representative shall issue a summons declaring the weeds, grass or vegetable growth to be a public nuisance and Code violation.

(b) In the event that it is determined by the Chief of Police or his designated representative that such property is held in joint ownership, notice to any one (1) of

the known owners of such property shall be deemed sufficient compliance with the provisions of this Section. In the event that it is determined by the Chief of Police or his designated representative that such property has been vacated or deserted, the mailing of notices to the last known address of the owner of such property shall be deemed sufficient compliance with the provisions of this Section. In the event that the owner of such property or the last known address of the owner of such property cannot be determined by the Chief of Police or his designated representative, the posting of notices on such property within view of the public shall be deemed sufficient compliance with the provisions of this Section.

(c) *Removal by City upon owner, lessee or occupant's failure to comply with notice; collection of fines and costs of removal.* If the weeds, grass or vegetable growths are not cut down and removed from such property on or before the seventh (7th) day after the date of the warning notice provided for in Subsection (b), the Chief of Police shall have the same cut down and removed from such property and shall certify the date and cost of such cutting and removing to the Municipal Court Clerk. Penalties for violations of this Section shall be:

(1) First violation on parcel or lot, minimum fine — seventy-five dollars ($75.00) plus removal costs;

(2) Second violation on same parcel or lot within one (1) year from date of first violation, minimum fine — one hundred fifty dollars ($150.00) plus removal costs;

(3) Third violation on same parcel or lot within one (1) year from date of first violation, minimum fine — three hundred dollars ($300.00) plus removal costs. Such fines and costs of removal shall be paid to the Eureka Municipal Division of the St. Louis County Circuit Court.

In the event that such fines and removal costs are not paid to the Eureka Municipal Court, by November thirtieth (30th) each year, the City Clerk shall cause a lien to be issued against the property on which the weeds, grass or vegetable growth were cut. Such lien shall be collected by the City Clerk, and from the date of its issuance, shall be a first lien on such property until paid and shall be prima facie evidence of the recitals therein and of its validity. No mere clerical error or informality in the same or in the proceedings leading up to the issuance of such notice or lien shall be a defense thereto. The lien shall be enforced in the manner provided by law.

All fines and removal costs, until such time that they are paid and the lien removed, shall bear interest at the rate of nine percent (9%) per annum.

(d) *Failure to comply with notices; misdemeanor.* If the weeds, grass or vegetable growths are not cut down and removed from such property on or before the seventh (7th) day after the serving of the notice provided for in Subsection (b), the owner, lessee or occupant of such property shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to penalties as provided for in Subsection (c) of this Section.

(e) If a notice of violation under this Section has been directed to the owner, occupant, agent or person in control of a property in a single calendar year, no subsequent notices are required to be given and all penalties may be immediately imposed and all City remedies may immediately be taken.

ARTICLE II
Solid Waste Storage, Collection and Disposal

§ 18-3. Definitions. [Ord. No. 1009 §1, 12-3-1991]

Whenever used in this Chapter, the following words, terms and phrases and their derivations shall be deemed to have the meaning indicated below:

APPROVED INCINERATORS — An incinerator which complies with all current regulations of the responsible local and state air pollution control agencies.

BULK WASTE — Non-putrescible solid waste consisting of combustible and/or non-combustible waste materials from dwelling units, which materials are either too large or too heavy to be safely and conveniently loaded in solid waste transportation vehicles by solid waste collectors with the equipment available therefor. Also includes "tree limbs" as defined in this Section.

CENTRAL COLLECTION SITE — A place designated by the City where residents may drop off recyclables for recycling.

CITY — The City of Eureka, Missouri.

COLLECTION — Removal of solid waste from its place of storage to the transportation vehicles.

COMMERCIAL SOLID WASTE — All solid waste except those items defined in the definitions of "bulk waste, infectious waste, solid waste, and special wastes" of this section.

COMPOSTABLES — Yard waste such as grass clippings, leaves, vines, hedge and shrub (including rose bushes) trimmings, tree trimmings, and tree limbs less than six (6) inches in diameter and no longer than four (4) feet in length, and/or other such organic materials from the yard.

CONTRACTOR — The solid waste hauler selected by the City to collect recyclables for recycling.

CURBSIDE — A location adjacent to and not more than five (5) feet from any street.

DIRECTOR — The City Administrator of the City of Eureka shall be the Director of the Solid Waste Management Program of the City, or his designee.

DISPOSABLE SOLID WASTE CONTAINER — Disposable plastic or paper sacks with a capacity of twenty (20) to thirty-five (35) gallons specifically designed for storage of solid waste.

DWELLING UNIT — Any room or group of rooms located within a structure, and forming a single habitable unit with facilities which are used or are intended to be used for living, sleeping, cooking and eating.

GARBAGE — Putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving, or consumption of food, cold ashes from fire places, paper of all kinds, cartons, containers, books, straw, small metallic items, crockery, and dishes.

INFECTIOUS WASTE — Includes isolation wastes, cultures and stocks of etiologic agents, blood and blood products, pathological wastes, other wastes from surgery and autopsy, contaminated laboratory waste, sharps, dialysis unit wastes, discarded biologicals known or suspected to be infectious.

MAJOR APPLIANCES — Washers and dryers, water heaters, trash compactors, dishwashers, microwave ovens, conventional ovens, ranges, stoves, wood stoves, air conditioners, refrigerators, freezers, dehumidifiers, humidifiers, etc.

MULTIPLE-HOUSING FACILITY — A housing facility containing more than one (1) dwelling unit under one (1) roof.

OCCUPANT — Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or of any other improved real property, either as owner or as a tenant.

PREMISES — All one-family to four-family dwellings located in the City.

PERSON — Any natural individual, firm, partnership, trust, association, or corporation. As applied to partnerships or associations, the word includes the partners or members thereof; and applied to corporations, it includes the officers, agents, or employees thereof who are responsible for the act referred to.

PROCESSING — Incinerating, composting, baling, shredding, salvaging, compacting and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

RECYCLABLES — Newsprint; brown, clear and green glass containers; aluminum cans; tin cans; plastic milk jugs and plastic soda bottles, all rinsed and reasonable free of food, dirt and other contaminants. Also included as recyclable is any other material that the City contractor may hereafter mutually agree to collect as a recyclable. For the purposes of this Article, recyclables shall not include other solid waste, bulk rubbish or special waste as defined in this Chapter.

RECYCLABLES CONTAINER — A container furnished by the contractor for storage of recyclables.

RECYCLING — The process of remanufacturing recyclables into other products or refurbishing them for reuse.

REFUSE — Solid waste.

RESIDENT — Every person who is an owner or occupant of a dwelling unit within the City.

RESIDENTIAL SOLID WASTE — Solid waste resulting from the maintenance and operation of dwelling units.

SOLID WASTE — Unwanted or discarded waste materials in a solid or semi-solid state, including but not limited to garbage, ashes, street refuse, rubbish, dead animals, animal or agricultural waste, but not including major appliances, recyclables and compostables.

SOLID WASTE CONTAINER — Receptacle used by any person to store solid waste during the interval between solid waste collections.

SOLID WASTE DISPOSAL — The process of discarding or getting rid of unwanted material. In particular, the final disposition of solid waste by man.

SOLID WASTE MANAGEMENT — The entire solid waste system of storage, collection, transportation, processing and disposal.

SPECIAL WASTES — Items which, by their very nature, can cause health problems or injury to individuals, including but not limited to solvents, insecticides, cleaning agents, heavy metals, prescription drugs, explosives, incendiaries, motor oils, refrigerants, infectious waste, and any materials prohibited by the Eureka Fire Protection District's Fire Codes.

STORAGE — Keeping, maintaining or storing solid waste from the time of its production until the time of its collection.

TRANSPORTATION — The transporting of solid waste from the place of collection or processing to a solid waste processing facility or solid waste disposal area.

TREE LIMBS — Limbs which are greater than six (6) inches in diameter and greater than four (4) feet in length.

§ 18-4. Solid Waste Storage. [Ord. No. 1009 §1, 12-3-1991]

(a) The occupant of every building containing only a single dwelling unit or only a single institutional, commercial, business, industrial, agricultural, professional, or non-profit occupant, and the owner of every building containing more than one (1) dwelling unit or profit occupant, and the owner of every building containing more than one (1) dwelling unit or more than one (1) institutional, commercial business, industrial, agricultural, professional or non-profit occupant, or any combination thereof, producing solid waste within the corporate limits of the City, shall provide or cause to be provided sufficient and adequate solid waste containers for the storage of all solid waste, except bulk rubbish and demolition and construction waste, to serve each such dwelling unit, establishment, or building, and shall maintain or cause to be maintained such solid waste containers in good repair at all times.

(b) The occupant of every building containing only a single institutional, commercial business, industrial, agricultural, professional or non-profit occupant, and the owner of every building containing more than one (1) dwelling unit or more than one (1) institutional, commercial business, industrial, agricultural, professional or non-profit occupant, or any combination thereof, shall place or cause to be placed in

proper solid waste containers, except as otherwise provided herein, all solid waste to be collected, and shall maintain or cause to be maintained such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times.

(c) Residential solid waste shall be stored in containers of not more than thirty-five (35) gallons nor less than twenty (20) gallons in nominal capacity. Large, portable plastic containers with wheels and having a capacity of not more than ninety (90) gallons are acceptable as well. Containers shall be leakproof, waterproof, and fitted with a fly-tight lid and shall be properly covered at all times, except when depositing waste therein or removing the contents thereof. The containers shall have handles, bails or other suitable lifting devices or features. Containers shall be of a type originally manufactured for residential solid waste, with tapered sides for easy emptying. They shall be of a light weight and sturdy construction. The weight of any individual container or contents shall not exceed seventy-five (75) pounds. Galvanized metal containers, or rubber, fiberglass or plastic containers which do not become brittle in cold weather, may be used. Disposable solid waste containers with suitable frames or containers as approved by the director may also be used for storage of residential solid waste.

(d) Commercial solid waste shall be stored in solid waste containers as approved by the director. The containers shall be waterproof, leakproof and shall be covered at all times except when depositing waste therein, or removing the contents thereof and shall meet all rules and regulations established pursuant to Section 18-9.

(e) Tree limbs and brush shall be securely tied in bundles not larger than forty-eight (48) inches long, or eighteen (18) inches in diameter. The weight of any individual bundle shall not exceed seventy-five (75) pounds.

§ 18-5. Collection of Solid Waste. [Ord. No. 1009 §1, 12-3-1991; Ord. No. 1782 §1, 8-17-2004; Ord. No. 1986 §1, 8-7-2007; Ord. No. 2126 §1, 6-15-2010]

(a) The City shall provide for the collection from all dwelling units, excluding multiple-housing facilities with more than four (4) units, of all solid wastes in the City, provided, however, that the City may provide the collection service by contracting with a person, county, or other City or a combination thereof, for the entire City or portions thereof, as deemed to be in the best interests of the City.

(b) All solid waste collected shall, upon being loaded into transportation equipment, become the property of the collector.

(c) Solid waste containers as required by this Chapter for the storage of residential solid waste shall be placed at the curb for collection but shall not be so placed until after 6:00 P.M. on the day prior to the regularly scheduled collection day. Containers shall be removed from the curb no later than 8:00 P.M. on the day of collection.

(d) Bulk waste shall be collected in conjunction with residential solid waste or by request of the occupant to the collector. The director may establish procedures for collecting bulk waste.

(e) Solid waste collectors, employed by solid waste collection agency operating under contract with the City, are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this Chapter. Solid waste collectors shall not enter dwelling units or other residential buildings for the purpose of collecting residential solid waste.

(f) The following collection frequencies shall apply to collections of solid waste within the City:

(1) All residential solid waste and bulk waste, shall be collected at least once weekly.

(2) All commercial solid waste shall be collected at least once weekly, and shall be collected at such lesser intervals as may be fixed by the director upon a determination that such lesser intervals are necessary for the preservation of the health and/or safety of the public.

(g) Residential solid waste containers shall be stored upon the residential premises. The storage site shall be well-drained and fully accessible to collection equipment, public health personnel and fire inspection personnel.

(h) Solid waste collectors, employed by a solid waste collection agency operating under contract with the City, shall be responsible for the collection of solid waste from the point of collection to the transportation vehicle provided the solid waste was stored in compliance with Section 18-4 (c), (d), and (e) of this Article. 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.

(i) Except as provided in subsection (c) hereof, the city encourages residents to store solid waste containers indoors, if possible. If solid waste containers are stored outdoors, unless such are stored under a carport, they must be stored in the rear or side yard and placed and/or screened in such a manner so as to not be visible from the street the front of the principal structure faces.

(j) It shall be unlawful for any person, firm or corporation collecting and disposing of rubbish, garbage or waste material from premises in the residential districts or premises in any commercial district which abuts or adjoins a residential district in the City, to make such collection or dispose of rubbish, garbage or waste materials between the hours of 7:00 P.M. and 6:30 A.M.. Failure to comply with the provisions herein stated shall constitute a misdemeanor and subject the offender to the penalties prescribed for violation of this Code.

§ 18-6. Transportation of Solid Waste. [Ord. No. 1009 §1, 12-3-1991]

(a) All transportation vehicles shall be maintained in a safe, clean and sanitary condition, and shall be so constructed, maintained and operated as to prevent

spillage of solid waste therefrom. All vehicles to be used for transportation of solid waste shall be constructed with water-tight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle, and shall be secured whenever the vehicle is transporting solid waste, or, as an alternate, the entire bodies thereof shall be enclosed with only loading hoppers exposed. No solid waste shall be transported in the loading hoppers.

(b) Permits shall not be required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such material shall be conveyed in tight vehicles, trucks, or receptacles, so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.

(c) Transportation and disposal of demolition and construction wastes shall be in accordance with Section 18-7 and 18-8.

§ 18-7. Disposal of Solid Waste. [Ord. No. 1009 §1, 12-3-1991]

Solid waste shall be deposited at a processing facility or disposal area approved by the City and complying with all requirements of the Missouri Solid Waste Management Law, Sections 260.200 and 260.245, RSMo., and the rules and regulations adopted hereunder. The City may designate the processing or disposal facility to be utilized by persons operating under Section 18-8 of this Article.

§ 18-8. Permits. [Ord. No. 1009 §1, 12-3-1991]

(a) No person shall engage in the business of collecting, transporting, processing or disposing of items covered by this Article within the corporate limits of the City without first obtaining an annual permit therefor from the City.

(b) All permit applicants agree to secure and keep in force with an insurance company licensed in the State of Missouri; to wit:

(1) Worker's Compensation Insurance as prescribed by the Statutes of the State of Missouri; and

(2) A policy of liability insurance on each vehicle used in the refuse disposal operations covered by the contract, indemnifying both the contractor and the City against damage suits, in an amount not less than $1,000,000.00/$2,000,000.00. The City of Eureka shall be named insured upon said policy of insurance and a certificate of insurance naming the City as an insured shall be provided to the City at the time of the execution of this contract. In the event any insurance policy herein required is canceled, the company shall notify the City thirty (30) days prior to such cancellation.

(c) All permit applicants agree that all drivers of its motor vehicles within the City of Eureka shall be properly licensed by the State of Missouri.

(d) All permit applicants assume full responsibility for and shall defend, indemnify and save harmless the City of Eureka from and against any and all liability, suits,

claims, damages, costs (including attorney's fees), losses, outlays, and expenses in any manner caused by, arising out of or connected with the failure or refusal of contractor to comply with, observe or perform any of the provisions of this contract, notwithstanding any possible negligence (whether sole, concurrent or otherwise) on the part of the City of Eureka, its agents or employees.

(e) Each permit applicant for any such permit shall state in his application therefor:

(1) The nature of the permit desired, such as to collect, transport, process or dispose of solid waste or any combination thereof;

(2) The characteristics of items to be collected, transported, processed, or disposed;

(3) The number of solid waste transportation vehicles to be operated hereunder;

(4) The precise location or locations 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 director.

(f) If the application shows that the applicant with 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 of Missouri and this Article, the director shall issue the permit authorized by this Article. The permit shall be issued on a calendar year basis, and each applicant shall pay therefor a fee of twenty-five dollars ($25.00) per vehicle per year for each transportation vehicle to be used. If, in the opinion of the director, modifications can be made to the application regarding service, equipment, or mode of operation so as to bring the application within the intent of this Article, the director shall notify the applicant, in writing, setting forth the modification to be made and the time in which it shall be done.

(g) If the applicant does not make the modifications pursuant to the notice in (f) within the time limit specified therein, or if the applications 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 director, 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 his application, provided that all aspects of the reapplication comply with the provisions of this ordinance.

(h) All permits shall expire on December thirty-first (31st) of the year issued. Any permit issued pursuant to this Section may be renewed for a one (1) year period by a majority vote of the Board of Aldermen at the last meeting prior to expiration of any permit, provided applicant has met all requirements of this Chapter.

(i) In order to insure compliance with the laws of this State, this Article and the rules and regulations authorized herein, the director is authorized to inspect all phases of solid waste management within the City of Eureka. No inspection shall be made in

any dwelling unit unless authorized by the occupant or by due process of the law. In all instances where such inspections reveal violation of this Article, the rules and regulations authorized herein for the storage, collection, transportation, processing or disposal of solid waste or the laws of the State of Missouri, the director shall issue notice for each such violation, stating therein the violation or violations found, the time and date, and the corrective measure to be taken, together with the time in which such corrections shall be made, not to exceed twenty (20) days from the notification date.

(j) In all cases when the corrective measures have not been taken within the time specified, the director shall suspend or revoke the permit or permits involved in the violation; however, in those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one (1) extension of time not to exceed the original time period may be given.

(k) Any person who feels aggrieved by any notice of violation or order issued pursuant thereto of the director, may, within ten (10) days of the act for which redress is sought, appeal directly to the Municipal Judge of the City of Eureka, in writing, setting forth in a concise statement the act being appealed and the grounds for its reversal.

§ 18-9. Rules and Regulations. [Ord. No. 1009 §1, 12-3-1991]

(a) The director may 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 of 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.

(b) A copy of any and all rules and regulations made and promulgated under the provisions hereof shall be filed in the office of the City Clerk of the City.

§ 18-10. Prohibited Practices. [Ord. No. 1009 §1, 12-3-1991]

It shall be unlawful for any person to:

(1) Deposit solid waste in any container other than his own with the intent of avoiding payment of any service charge provided for solid waste collection and disposal or avoiding compliance with any of the provisions of Chapter 18; [Ord. No. 2290 §1, 2-18-2014]

(2) Interfere in any manner with 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;

(3) Burn solid waste unless an approved incinerator is provided or unless a variance has been obtained from the appropriate air pollution control agency;

(4) Dispose of solid waste at a facility or location which is not approved by the City and the Missouri Division of Health;

(5) Engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the City without a permit from the City, or operate under an expired permit, or operate after a permit has been suspended or revoked;

(6) Allow, keep or maintain any accumulation of solid waste upon any lot, ground or premises in the City;

(7) Accumulate solid waste of any type for a period in excess of fourteen (14) days.

ARTICLE III
Recycling Solid Waste

§ 18-11. Purpose. [Ord. No. 1009 §2, 12-3-1991]

The purpose of this Article is to encourage voluntary separation of recyclable items to aid and promote collection thereof and disposal by means other than deposit in a sanitary landfill or by burning.

§ 18-12. Separation and Storage of Recyclables. [Ord. No. 1009 §2, 12-3-1991]

(a) Every resident of every premises is encouraged to separate the recyclables from their respective premises from all other refuse, garbage, rubbish, waste matter, and compostables and shall store the recyclables in a recyclables container furnished by the contractor. Except for additional containers purchased by residents, recyclables containers shall be the property of the contractor and shall remain on the premises when residents relocate. Residents who need additional recyclable containers may purchases the same from the contractor.

(b) All recyclables may be placed together in the recyclables container. If necessary to save space in the recyclables container, newsprint may be bundled separately and placed next to the recyclables container at curbside.

(c) Residents, not earlier than 6:00 P.M. of the day prior to the day scheduled for collection of recyclables from their respective dwellings, shall place the recyclables containers at the curbside adjacent to the dwelling or garage accessory thereto and visible from the street in front of the dwelling. After the scheduled collection, the containers for recyclables and any recyclables not collected shall be removed from curbside by the resident by 8:00 p.m. of the day of collection.

(d) The deposit of unauthorized materials into another person's recyclables container or bin, or removal of another person's recyclables from a recyclables container, or removal of a recyclables container from another person's premises, shall be deemed a violation of this Chapter.

(e) Except as provided in subsection (c) hereof, all containers for recyclables and compostables stored out of doors shall be stored behind any building located on the tract of land.

§ 18-13. Separation and Storage of Compostables. [Ord. No. 1009 §2, 12-3-1991]

(a) Every resident of every premises is encouraged to separate compostables from their respective premises from all other refuse, garbage, rubbish, waste matter and recyclables. Compostables to be collected by the City or the collector shall be stored in containers which are either biodegradable paper bags, thirty (30) gallon reusable metal or plastic containers, or ninety (90) gallon heavy plastic portable tote container. Containers for compostables must be tightly sealed to prevent nuisance odors.

(b) Plastic bag containers shall not be used for compostables collection.

(c) All compostables may be placed together in the same compostables container as described in Subsection (a) above. However, small limbs (no larger than four (4) feet long and less than six (6) inches in diameter) and branches may also be bundled and placed at curbside on recycling day.

(d) Compostables shall be placed at the curbside on the same collection day, in the same manner and at the same time as recyclables.

§ 18-14. Collection of Recyclables/Compostables. [Ord. No. 1009, §2]

(a) Collection of recyclables and compostables from premises shall be by a hauler selected by the City, which hauler shall be duly licensed by the City. Also, such collection shall be done in compliance with all other applicable ordinances of the City, now or hereafter in effect. The recyclables and compostables shall be collected from the premises covered by such contract by the collector under contract with the City and on terms and conditions set out in such contract.

(b) The collection of recyclables and compostables at curbside by any private hauler not authorized by the City is expressly prohibited.

(c) The contractor shall collect all recyclables and compostables on the same day once each week in accordance with schedules of and routes for collection as determined by the director.

(d) Neither the foregoing provisions of this Section nor any other provisions of this Article shall prevent any resident from discarding that resident's recyclables by personally delivering them to a recycling plant, centralized collection site, manufacturer, or other vendor, or donating the same to non-profit civic, charitable, or service organizations.

(e) The City may designate a central collection site for the discarding of recyclables.

§ 18-15. Disposal of Recyclables/Compostables — Residents. [Ord. No. 1009 §2, 12-3-1991]

(a) Recyclables shall not, in any event:

(1) Be deposited in any landfill.

(2) Be burned in any incinerator.

(3) Be deposited or distributed in any way or manner which is contrary to the then applicable law, statute, ordinance rule or regulation. Provided, however, that the restrictions in (1) and (2) above shall not apply to any recyclables or compostables which are deposited in any landfill or burned pursuant to specific prior written approval granted by the City.

(b) Residents shall take such action as is reasonable under the circumstances to determine that recyclables and compostables are not disposed of contrary to the provisions of this Section.

§ 18-16. Ownership of Recyclables/Compostables. [Ord. No. 1009 §2, 12-3-1991]

All recyclable and compostable materials shall be owned by and be the responsibility of the residents of premises until they are collected by the collector at curbside. Upon collection of the recyclable and/or compostable materials at the curbside the collector, the recyclable and/or compostable materials, with the exception of recyclables containers and/or compostable containers which are reusable, become the property and responsibility of the contractor.

§ 18-17. Care of Recyclables Containers. [Ord. No. 1009 §2, 12-3-1991]

Each resident shall be responsible for the cleanliness and proper care of each recyclables container in his/her possession. Abuse of the container will cause the forfeit of a resident's right to a free replacement container when necessary.

§ 18-18. Replacement of Recyclables Containers. [Ord. No. 1009 §2, 12-3-1991]

The contractor's employees shall evaluate the condition of recyclables containers for possible reuse. If reusable, they will be left with the resident for the next week's collection. In the event the recyclables container is determined to be unserviceable, due to

usual wear and tear, for another week, a new recyclables container furnished by the contractor, at no charge, will be left with the resident and the old recyclables container will be collected and recycled. Recyclables containers will be exchanged on a one-for-one basis as determined by condition at collection time. The number of new containers furnished will be reported to the City monthly along with contractor's monthly summary report.

§ 18-19. Contractor's Report. [Ord. No. 1009 §2, 12-3-1991]

(a) Contractor may retain all proceeds of sale of recyclables and/or compostables to recycling plants, manufacturers or other users.

(b) The contractor shall submit a monthly summary of the quantity and kinds of solid waste collected from Eureka each month, including the types and quantities of household and bulky wastes, recyclables, compostables, and special waste materials. Monthly summaries shall be submitted prior to payment for the month for which the report is submitted. A weight ticket showing tons of recyclables and compostables collected shall be provided upon request.

(c) The contractor shall provide access to the City, or any of its duly authorized representatives, to review any books, documents, papers and records of the contractor which are directly pertinent to this Article for the purpose of making an audit, other examination and preparing excerpts and transcriptions.

§ 18-20. Disposal of Recyclables/Compostables — Contractors. [Ord. No. 1009 §2, 12-3-1991]

Contractor shall dispose of recyclables at a local recycling and/or composting facility, if available; otherwise, contractor may sell recyclables and/or compostables to any purchaser of contractor's choosing, unless otherwise directed by the City. Contractor shall be entitled to retain the proceeds of any sale thereof.

§ 18-21. Training and Education. [Ord. No. 1009 §2, 12-3-1991]

In order to effect a smooth transition to the voluntary recycling program, the contractor shall provide any and all training and education reasonable necessary to the residents of the City.

ARTICLE IV
Special Waste

§ 18-22. Prohibition of Private Disposal. [Ord. No. 1009 §3, 12-3-1991]

All special waste as defined in this Chapter, shall be disposed of by residents of the City of Eureka in compliance with the requirements of this Chapter. In no case shall a resident deposit special waste in any refuse container or recyclables container or bin for pick-up by the City's solid waste hauler.

§ 18-23. Appointment for Pick-Up. [Ord. No. 1009 §3, 12-3-1991]

Any residents desiring to dispose of special waste shall contact the contractor for an inspection appointment. An employee of the contractor shall examine the special waste at the scheduled time and determine the most appropriate method of removal, and will either arrange for said removal or refer the resident to the appropriate removal entity. Removal of special wastes shall be at the resident's expense. Special waste consisting of explosive and incendiary material such as ammunition, blasting caps and dynamite shall be removed under the supervision of the Police Department or by an agency designated by the Police Department.

§ 18-24. Continuance of Collection at no Charge. [Ord. No. 1009 §3, 12-3-1991]

Major appliances, shall continue to be collected by the contractor at no additional charge to residents or the City of Eureka. These include, but are not necessarily limited to, washers and dryers, water heaters, trash compactors, dishwashers, microwave ovens, conventional ovens, ranges, stoves, wood stoves, air conditioners, refrigerators, freezers, dehumidifiers, humidifiers, etc. Removal of such items shall be subject to prior notification to the contractor by the resident.

ARTICLE V
General Penalties

§ 18-25. General Penalties. [Ord. No. 1009 §4, 12-3-1991]

All violations of any provisions of Chapter 18 shall be punishable by a fine not to exceed five hundred dollars ($500.00), or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment.

Chapter 19

SEWERS AND SEWAGE DISPOSAL

ARTICLE I
In General

§ 19-1. Waterworks and Sewer Systems Combined. [Ord. No. 201, §2]

The existing waterworks of the city and the existing sanitary sewerage system and all future improvements and extensions thereto, whether to the waterworks or to the sewerage system or to both, shall be and the same are combined and it is hereby declared that the waterworks and the sewerage systems, and all future improvements and extensions thereto as aforesaid, thenceforth shall be operated and maintained as a combined waterworks and sewerage system.

§ 19-2. Use of Public Sewer System Generally. [Ord. No. 117, §2]

Where a public sewer is accessible in a street, alley or easement to a building or premises abutting thereon, the liquid wastes from any plumbing system in the building shall discharge into the public sewer, unless otherwise authorized by the board of aldermen.

Under no conditions shall surface drains, ground water, roof leaders or storm water drains be permitted to connect to the sanitary sewer.

§ 19-3. Contracts with Property Owners Connected to Private Sewer Systems to Protect Against Double Taxation. [Ord. No. 132, §1-3]

The board of aldermen is hereby authorized to enter into contract with property owners of the city who own property which is not presently within an established sewer district, to protect the property owners from a duplicate charge in the event that they provide sewage disposal for themselves by hooking onto an existing approved private sewer line.

In the agreement with the property owners, the city shall agree to reimburse to the property owners the expenses of hooking into the private sewer line in the event that a public sewer district is established in which their property would be included and then subsequently that they will tax the property owner his pro rata share of the cost of the improvement, the cost of his pay off being a part of the total cost of the improvement.

The mayor and the city clerk are hereby authorized to execute a contract with the individual property owners who may desire to hook into the private sanitary sewage sewer line on the terms, covenants and conditions as is provided within this section after the approval of the board of aldermen is had with regard to each individual contract.

ARTICLE II
Connections to City Sewer Systems

§ 19-4. "House or Building Sewer" Defined. [Ord. No. 117, §1]

"House or building sewer" is defined as the pipe which begins at the outside of the foundation or wall of a building and connects the building sanitary drainage system with the public main of the sanitary sewage system.

§ 19-5. When Required. [Ord. No. 97, §1]

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way, shall at such times as a public sanitary sewer becomes available to any such property being served by a private sewage system, septic tank, cesspool or other facility intended or used for disposal of sewage, shall effect a direct connection to the public sewer at such owner's expense, within one year after date of official notice to do so; provided, that the public sewer is within one hundred feet of the property line. Any septic tank, cesspool and similar private sewage disposal facilities shall thereupon be abandoned and filled with suitable material.

§ 19-6. Connection Permit — Required. [Ord. No. 117, §4]

Before any connections are made to the public main sewer, a permit shall be applied for and approved by the city water and sewer commissioner or his designated representative.

§ 19-7. Same — Approval of Plans and Specifications. [Ord. No. 95, §3]

No connection permit as is herein required shall be issued unless and until the plans and specifications of such proposed connection are submitted by the applicant therefor to the city plumbing inspector or such other city official as may be designated by the city to issue such permit; provided; that such proposed connection is effected by a licensed plumber or engineer and in compliance with the rules and regulations applicable thereto, and subject to the payment in advance by the applicant of a permit fee.

§ 19-7.1. Supplemental Assessment for Newly Constructed Family Dwellings. [Ord. No. 289, §1; Ord. No. 405, §1]

(a) A supplemental assessment of two hundred twenty-five dollars shall be charged for each family unit within a newly constructed family dwelling, whether or not such unit is in a single-family or in a multi-family dwelling and whether within or without the city limits, for the use of sewage treatment facilities, payable upon application for a building permit.

(b) If, in the judgment of the board of aldermen, the contemplated construction of large unit dwellings can reasonably be anticipated to require large expenditures of money for sewage treatment facilities, the two hundred twenty-five dollars supplemental connection fee per living unit provided for above may be required to be paid upon approval of the development plans for the entire development.

(c) The provisions of this section shall not affect the housing units constructed by the Kelley Fischer Company and located within the Flat Creek Water Shed, which such fees are covered by contract between the city and The Kelley Fischer Company.

§ 19-8. Connection Fees. [Ord. No. 95, §4; Ord. No. 289, §2; Ord. No. 372, §1; Ord. No. 496, §1; Ord. No. 616, §1; Ord. No. 697, §1 & 2.; Ord. No. 2047 §1, 6-17-2008]

The following sewer connection fees shall be charged to users:

(a) *Residential users.*

(1)	Single-family residential buildings which shall include one principal structure and up to two ancillary or accessory structures in single-family residential zoning districts which need not be connected simultaneously	$125.00
(2)	Duplex residential buildings, per unit	$85.00
(3)	Multi-family dwellings of more than two units, per unit	$100.00

(b) *Commercial users.*

(1)	Commercial stores not using water in sales or production	$200.00
(2)	Commercial accounts using water in sales or production:	
	a. Hotels or motels (per room)	$100.00
	b. Mobile home parks, trailer and camper pads (per unit)	$125.00
	c. Laundromats (per washing machine)	$100.00
	d. Restaurants (per seat)	$60.00
	e. Auto service stations	$500.00
	f. Grocery stores (under 3,000 sq. ft.)	$500.00
	g. Grocery stores (over 3,000 sq. ft.)	$1,000.00
	h. Grocery stores with garbage grinders installed	$2,000.00
	i. Dump stations for traveling trailers, campers and recreational vehicles	$500.00
	j. Lounges (per seat)	$30.00

In cases where a mixed use is to occupy the same structure, the various uses shall be calculated separately and totaled to determine the total sewer connection fee. Commercial accounts using water in sales or production and not listed by use above shall be determined by the board of aldermen on a case by case basis, using data relevant to the proposed use.

These fees shall be adjusted on an annual basis, effective January 1 of the year in

question, to reflect increases, if any, in November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

(c) *Industrial users.*

(1) Industrial users without water or liquid processing shall pay a sewer connection fee of thirty-seven dollars and fifty cents per employee or three hundred seventy-five dollars per acre or fraction thereof, whichever is greater.

(2) Industrial accounts which discharge cooling water or process water into the sanitary sewer system shall pay a sewer connection fee calculated at the rate of one dollar per gallon of average daily water consumption which shall be calculated by averaging the daily water consumption over a six-month period. Such users shall pay a deposit based on the user's estimate of the volume of water consumption.

(d) *Institutional users.*

(1) Hospitals and nursing homes shall pay a sewer connection fee calculated at the rate of one dollar per gallon of average daily water consumption which shall be calculated by averaging the daily water consumption over a six-month period.

(2) Schools shall pay a sewer connection fee of three hundred dollars per classroom.

(3) Public buildings other than schools shall pay a sewer connection fee of one hundred dollars per room.

(4) Hospitals and nursing homes shall make a deposit to the city as set forth below. The deposit to apply to the sewer connection fee shall be based on average daily consumption as calculated by paragraph (1) of this subsection.

a. Hospitals, without laundry, per bed	$200.00
b. Hospitals, with laundry, per bed	$275.00
c. Nursing home, without laundry, per bed	$67.50
d. Nursing home, with laundry, per bed	$92.50

§ 19-9. Sewer Maintenance Charges. [Ord. No. 95, §5; Ord. No. 104, §1; Ord. No. 176, §2; Ord. No. 289, §3; Ord. No. 302, §1; Ord. No. 372, §2; Ord. No. 477, §1; Ord. No. 552, §2; Ord. No. 616, §1.; Ord. No. 1843 §1, 8-2-2005]

Winter water consumption shall be based on water usage per the previous February bill which reflects January water consumption. Annually in February the billing system will automatically change all usage based accounts which shall be determined by the previously recorded January water consumption. This shall serve as the new winter water consumption basis for the following year.

For new residential water accounts established after February, customers shall inform the City of the expected number of members to reside in the household and the usage rate shall be as established for (a)(4) below until winter water consumption can be established in the following February. For new commercial accounts established after February, the monthly usage will be based on the first (1st) month's water consumption until winter water consumption can be established in the following February.

New monthly sewer maintenance charges for each class of user shall be as follows:

(a) *Residential users.*

(1) *Single-family residential.* [Ord. No. 2272 §1, 10-1-2013]

Within City limits	$10.00 per month (base monthly rate)
	$0.50 for each 1,000 gallons of water consumed or fraction thereof over 2,000 gallons as based on winter water consumption.
	$3.50 per month for those qualifying for participation in the State of Missouri's Circuit Breaker Program.
Outside City limits	$17.00 per month (base monthly rate)
	$0.50 for each 1,000 gallons of water consumed or fraction thereof over 2,000 gallons as based on winter water consumption.
	$7.00 per month for those qualifying for participation in the State of Missouri's Circuit Breaker Program.

(2) *Multi-family units (charges based on each apartment unit).* [Ord. No. 2272 §1, 10-1-2013]

Within City limits	$10.00 per month (base monthly rate)
	$0.50 for each 1,000 gallons of water consumed or fraction thereof over 2,000 gallons as based on winter water consumption.
	$3.50 per month per apartment or unit for those qualifying for

	participation in the State of Missouri's Circuit Breaker Program.
Outside City limits	$17.00 per month (base monthly rate)
	$0.50 for each 1,000 gallons of water consumed or fraction thereof over 2,000 gallons as based on winter water consumption.
	$7.00 per month per apartment or unit for those qualifying for participation in the State of Missouri's Circuit Breaker Program.

(3) *Mobile home parks:* $2.50 per month for each occupied space.

(4) Residential accounts having City sewer but no City water shall pay the applicable base monthly rate for sewer service plus one dollar ($1.00) times each person in a household (the one dollar ($1.00) charge is based on the cost of two thousand (2,000) additional gallons of water consumption, for each person in a household, in excess of the first two thousand (2,000) gallons of water consumption for the entire household).

(b) *Commercial and light industrial users.*

(1) *Rates.* [Ord. No. 2272 §2, 10-1-2013]

City water system users	$11.50 per month (base monthly rate)
	$0.50 for each 1,000 gallons of water consumed or fraction thereof over 2,000 gallons as based on winter water consumption.

(2) Commercial and light industrial accounts not located within the limits of the City or having City sewer but no City water shall be charged a special negotiated sewer maintenance charge which shall be made the subject of a contract between the City and the user.

(3) Commercial accounts having a dump station for trailers, campers and recreational vehicles shall pay, in addition to their monthly sewer maintenance charge, an annual service charge of five hundred dollars ($500.00) due by January thirty-first (31st) of each year with a prorated interim use charge from the date of connection to January thirty- first (31st) based on such annual charge.

(4) Light industrial plants which discharge wastes which are difficult or impossible to break down in an oxygen biodegradable type sewage treatment plant shall be charged a special negotiated sewer maintenance charge based on the facts and potential problems which exist with each such installation.

(c) *Heavy industrial users.*

(1) Heavy industrial plants shall be investigated separately and a contract negotiated based on all of the factors involved.

(d) *Schools.*

(1) An annual charge based upon the average daily student or user population of the structure computed by using the month of October as an average month and the annual charge shall be equal to seventy-five percent (75%) of two dollars fifty cents ($2.50) multiplied by the average daily student population computed as outlined, which charge shall be paid before January of each year.

(e) *Institutional users.*

(1) Charges for institutional users shall be as follows: One dollar ($1.00) per bed monthly for institutions without laundry facilities and one dollar twenty-five cents ($1.25) per bed monthly for institutions with laundry facilities.

(f) *Authority to negotiate contracts.* The Mayor is hereby appointed the contracting agent for the purpose of negotiating any contracts which require negotiation hereunder. Each such contract is subject to the approval of the Board of Aldermen.

§ 19-9.1. Sewer Impact Fee. [Ord. No. 1100 §%%'entity-sect'%%1-6, 5-17-1994; Ord. No. 1566 §§1 — 2, 11-6-2001]

(a) A water and sewer impact fee is hereby established for all types of development located within all zoning districts of the City with the exception of that enumerated in Subsection (d) of this Section, pursuant to Subsection (g) of this Section.

(b) In the case of residential development, sewer impact fees must be paid to the City in conjunction with, and at the time of building permit issuance. In the case of multiple dwelling unit residential development, such fees may be paid on a lump sum basis or with each building permit. In the case of commercial or industrial development, impact fees shall be calculated and assessed upon an applicant submitting a "Municipal Zoning Approval for Permit Application" form to the City for approval, and said impact fees shall be paid to the City before the issuance of an occupancy permit or business license for the subject premises. Impact fees shall be collected only for new construction; expansions, additions and renovations are exempted, however, additional impact fees may be assessed in the event a building, unit, bay or space is utilized in a manner which is of a higher intensity than that upon which the original impact fee was based.

(c) The City may consider the allocation of all or a portion of required impact fees toward the subject site specific development if there is documented evidence provided by an applicant that there will be substantial benefits provided off-site as well, as approved by the City. In the event that infrastructural improvements must proceed prior to or concurrent with the subject development, the City may consider advancing monies necessary to complete said improvements if same is secured by an escrow approved by the City until such time that all impact fees are collected by the City, only if the City makes a determination that it has the resources readily available and a maximum advancement term is established by the City. These

impact fee requirements do not in any way relieve an applicant of any water and sewer infrastructure installation requirements, connection fees or any other customary fees or costs.

(d) The following types of proposed construction or development which may or may not have already had impact fees imposed are exempt from these provisions: single lot, private owner residence development, residential subdivision developments having received at least preliminary approval as of May 17, 1994, and commercial or industrial projects or facilities approved by the City as of May 17, 1994. All impact fees which were imposed prior to May 17, 1994, shall remain in full force and effect at their respective pre-existing levels.

(e) Water and sewer impacts fees imposed and collected by the City may not be utilized by the City or its assigns for any other purpose than the construction, operation and maintenance of the water and sanitary sewage systems.

(f) Any impact fee schedule adjustments must be approved by the Board of Aldermen.

(g) *Sewer Impact Fees.* Ancillary structures such as storage sheds or storage buildings are excluded from these fees. The City shall make a determination as to the applicability of the fee structure in cases where building classification is in question or in cases of general interpretation of this schedule.

Single-Family Residential Development: Per single-family residence.

Sewer Impact Fee: $250.00

Multiple-Family Development: Per unit regardless of the number of units in a single building (50% of Single-Family Residence Fees):

Sewer Impact Fee: $125.00

Commercial Development: Per building, store, unit or bay, whichever is greater in number.

(a) Commercial entities using water in sales or production (250% of Single-Family Residence Fees):

Sewer Impact Fee: $625.00

(b) Commercial entities not using water in sales or production (150% of Single- Family Residence Fees):

Sewer Impact Fee: $375.00

Light Industrial Development: Per building, store, unit or bay, whichever is greater in number.

(a) Light Industrial entities using water in sales or production (350% of Single-Family Residence Fees):

Sewer Impact Fee: $875.00

(b) Light Industrial entities not using water in sales or production (150% of Single- Family Residence Fees):

Sewer Impact Fee: $375.00

Heavy Industrial Development: Per building, store, unit or bay, whichever is greater in number.

(a) Heavy Industrial entities using water in sales or production (450% of Single- Family Residence Fees):

Sewer Impact Fee: $1,125.00

(b) Heavy Industrial entities not using water in sales or production (150% of Single- Family Residence Fees):

Sewer Impact Fee: $375.00

Office Development: For purposes of this Section, an "office" is a place of business characterized by the absence of retail sales as a principal business activity.

Sewer Impact Fee: Ten cents $0.10 per square foot

§ 19-10. Each Building to have Separate House Sewer and Drainage System; Exception. [Ord. No. 117, §2]

The house sewer and drainage system of each new building and of new work installed in an existing building shall be separate from and independent of that of any other building and every building shall have an independent connection with a public sewer; except, that where one building stands to the rear of another building on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole will be considered as one building sewer.

§ 19-11. Location. [Ord. No. 117, §2]

Every connecting building sewer shall be connected to the municipal sewer system at the "Y" designated for the property served by the connection, except where otherwise expressly authorized by the city sewer inspector.

§ 19-12. Supervision of Installation or Repair. [Ord. No. 117, §3]

The city sewer inspector shall supervise all house sewer connections made to the public sanitary sewer system and excavations for the purpose of installing or repairing the same.

§ 19-13. Construction Requirements. [Ord. No. 117, §5]

The following materials and construction methods and none other shall be used in the building of sewers and connections to the public sanitary sewer system:

(a) *Materials.* All pipe shall be one of the following: Cast-iron soil pipe conforming to the A.S.T.M. standard specification A-74-62; asbestos cement building sewer conforming to the specifications of Johns-Manville Transite Asbestos-Cement

Building Sewer Pipe; or vitrified glazed clay sewer pipe conforming to A.S.T.M. standard specifications C-13 or C-261, with compression-type coupling designated at A.S.T.M. C-425-58T known as PVC (polyvinyl chloride) joint coupling.

(b) *Size.* The size of all pipe shall not be less than six inches in diameter for a single dwelling, and not less than six inches in diameter for a commercial building or a multiple dwelling. No single length of pipe shall exceed ten feet in length at any time.

(c) *Joints and connections.*

(1) *Cast-Iron Soil Pipe.* Joints for cast-iron pipe shall be made by inserting a roll of hemp or jute and thoroughly caulking it into place and then following with pure molten lead well caulked not less than one inch deep.

(2) *Asbestos-Cement Sewer Pipe.* Joints for asbestos-cement sewer pipe shall be made by use of the manufacturer's joint, which shall include an asbestos-cement coupling, together with rubber rings which shall form a tight and flexible joint conforming to Transite Ring-Tite Couplings.

(3) *Vitrified Glazed Clay Sewer Pipe.* Joints shall be fitted with factory-made resilient compression joints meeting A.S.T.M. specifications for vitrified clay pipe compression type joints having resilient properties better known as PVC (polyvinyl chloride) joint couplings designated C-425. Before joining the pipe in the trench, the bell and spigot surfaces shall be wiped free of dirt and other foreign matter. A lubricant or sealer, as recommended by the pipe manufacturer, shall be applied to the bell and spigot mating surfaces just before they are joined together. The top or one side of the spigot end shall be positioned into the bell end of the pipe previously laid and shall then be shoved home to compress the joint and to assure a tight fit between the interfaces. Special compression adaptors or field unions shall be used where connections are made to street sewers, building or house drains, cut pipe or to pipe line already in place.

(d) *Grades.* Unless otherwise authorized, all house sewers shall have a grade of not less than one-eighth of an inch per foot. A grade of one-fourth inch per foot should be used wherever practical. Wherever possible, the connecting sewer shall join the building at an elevation which is below the basement floor of such building.

(e) *Trenching and backfilling.* All excavations shall be open-trench work unless otherwise authorized by the sewer inspector. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good, firm earth, the earth shall be pared or molded to give a full support to the lower third of each pipe. The bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below grade and brought back to the proper grade with fine gravel, coarse sand or similar materials so as to provide a firm foundation and uniform support for the house sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet

above the pipe. Backfilling shall not be done until final inspection is made by the sewer inspector.

(f) *Tunneling.* Tunneling for distances of not more than six feet is permissible in yards, courts or driveways of any building site.

(g) *Repair of public right-of-way.* No connection to the public sanitary sewer system shall be finally approved until all streets, pavements, curbs or other public improvements thereon have been restored to their former condition to the satisfaction of the city inspector.

(h) *Use of old house sewers.* Old house sewers or portions thereof may be approved for use by the city inspector. The inspector may request that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a house sewer that is also connected to the public sanitary sewer.

ARTICLE III
Waste Disposal

§ 19-14. Scope and Purpose. [Ord. No. 271 §§1-2, 9-2-1969]

(a) It is deemed necessary in the interest of public health and welfare to reasonably regulate the discharge of certain wastes, and to inaugurate a program of inspection and regulation of all discharges of wastes to protect the city's sewage system.

(b) Such regulation and inspection is necessary because certain wastes may damage the city's sewage system and related appurtenances or interfere with the sewage treatment processes if discharged into the city's sewage system, and it is deemed necessary, therefore, to preclude certain wastes from entering the sewage system to avoid damage to the system or to avoid undue pollutional effects on the waters of the state.

§ 19-15. Definitions. [Ord. No. 271 §3, 9-2-1969]

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

B.O.D. (denoting Biochemical Oxygen Demand) — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees centigrade (20° C), sixty-eight degrees fahrenheit (68°F) expressed in milligrams per liter.

BUILDING SEWER — The sewer extension from the building drain to the public sewer or other place of disposal.

CITY — The City of Eureka.

COOLING WATER — The water discharged from any system of condensation, air conditioning, cooling, refrigeration, or other, but which shall be free from odor and oil. It

shall contain no polluting substances which would produce B.O.D. or suspended solids each in excess of ten (10) milligrams per liter.

COMBINED SEWER — A sewer designed and intended to receive and convey sewage, storm water including roof and street drainage, and unpolluted wastewater and cooling water.

DRAINAGE CHANNEL — Any artificially constructed open channel, ditch, swale, or flume, whether lined or unlined, for the drainage of storm water and groundwater.

GARBAGE — Every refuse accumulation of solid animal, fruit and vegetable matter that attends the preparation, use, cooking, dealing in or storing of food and from the handling, storage and sale of produce.

INDUSTRIAL CONNECTION SEWER — That portion of sewer line required to carry the sewage of any industrial or commercial establishment from the last point of sewage entry on the premises to a public sewer or to carry the discharge from any industrial pretreatment facility to a public sewer.

INDUSTRIAL WASTE — The waterborne wastes from industrial processes, as distinct from sanitary sewage.

INDUSTRIAL WASTE TREATMENT PLANT — Any treatment plant device or facility used or intended to be used for the specific treatment of industrial wastes in which other wastes may or may not be present; provided, that a treatment plant in a public sewage system shall not be so designated.

MAYOR — The Mayor of the City of Eureka, or his duly authorized representative.

NATURAL OUTLET — Any outlet into a watercourse, stream, creek, river, pond, lake or any other body of surface or ground water.

NORMAL SEWAGE — Waters or wastes having (1) a five (5) day Biochemical Oxygen Demand not greater than three hundred (300) milligrams per liter, and (2) containing not more than three hundred fifty (350) milligrams per liter of suspended solids.

PERSON — Any individual, firm, company, municipality, association, society, corporation, or group.

pH — The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE — The wastes from the preparation, cooking, and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.

PUBLIC SEWER — A sewer in which all owners of abutting properties have equal rights and is controlled by the City of Eureka.

SANITARY SEWAGE — Sewage discharging from the sanitary conveniences of dwelling (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water and industrial wastes.

SANITARY SEWER — A sewer designed and intended to receive and convey only sewage as defined herein, together with such infiltration as cannot be avoided.

SEMI-PUBLIC SEWAGE DISPOSAL OR SEWAGE TREATMENT FACILITY — A device or facility for treating or disposing of sewage or industrial wastes from a school, public building, institution, church, hotel, motel, or other building or structure not classified as private.

SEWAGE — The water-carried wastes from residences, business buildings, institutions and industrial establishments, singular or in any combination, together with such ground surface and storm waters as cannot be avoided.

SEWAGE TREATMENT PLANT — Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS OR SEWAGE SYSTEM — All facilities for collecting, pumping, treating and disposing of sewage.

SEWER — A pipe or conduit for carrying sewage and other waste liquids.

SHALL — Is mandatory; MAY — is permissive.

STORM SEWER OR STORM DRAIN — A pipe or conduit designed and intended to receive and convey only storm or unpolluted waters.

STORM WATER — Any water resulting from precipitation mixed with the accumulation of dirt, soil, and other debris or substances collected from the surfaces on which such precipitation falls or flows.

SUSPENDED SOLIDS — Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids; and which are removable by laboratory filtering.

UNPOLLUTED WATER OR WASTE — Any water or waste containing none of the following: free or emulsified grease or oil; acid or alkali; phenols or other substances imparting taste and odor in receiving waters; toxic or poisonous substances in suspension, colloidal state or solution; and noxious or odorous gases. It shall contain not more than ten thousand (10,000) milligrams per liter of dissolved solids, of which not more than two thousand five hundred (2,500) milligrams per liter shall be as chloride, with permissible volume subject to review by the city; and not more than ten (10) milligrams per liter each of suspended solids and B.O.D. The color shall not exceed fifty (50) units. (The unit color being that produced by one (1) milligram per liter platinum, in the form of chloroplatinate ion.)

WATERCOURSE — A natural surface drainage channel for storm water and ground water in which a flow of water occurs, either continuously or intermittently.

WATERS OF THE STATE — All rivers, streams, lakes and other bodies of surface or subsurface water lying within or forming a part of the boundaries of the state which are

not entirely confined and retained completely upon the property of a single individual, partnership or corporation.

§ 19-16. Unlawful to Discharge or Deposit Sewage, Etc., into any Natural Outlet. [Ord. No. 271 §4, 9-2-1969]

It shall be unlawful to discharge or deposit into any natural outlet, drainage channel, or watercourse within the City of Eureka any sewage, industrial wastes, garbage, polluted water or any other substance which constitutes a nuisance or hazard to the public health or welfare, except the effluent from a properly designed and approved sewage treatment facility or device which has been provided in accordance with the provisions of this article.

§ 19-17. Septic Tanks, Cesspools, Etc., Prohibited. [Ord. No. 271 §5, 9-2-1969]

Except as hereinafter provided, it shall be unlawful to install any cesspool, septic tank or other facility intended or used for the disposal of sewage.

§ 19-18. Connection to Public Sewer Required, When. [Ord. No. 271 §6, 9-2-1969]

At such time as a sanitary or combined public sewer becomes available to a property served by a private or semi-public sewage disposal system or treatment facility, as provided in Section 19-19 of this article, a direct connection shall be made to the public sewer in compliance with this article, and any septic tank, cesspool, or similar private or semi-public sewage disposal or treatment facilities shall be abandoned and filled with suitable material.

§ 19-19. Public or Semi-Public Sewage Disposal System. [Ord. No. 271 §7, 9-2-1969]

Where a public sanitary or combined sewer is not available under the provisions of this article, the building sewer shall be connected to an approved private or semi-public sewer or sewage disposal system or sewage treatment facility complying with the provisions of this article. A sewer shall be considered available if it is within one hundred fifty (150) feet of any part of the property to be connected to the sewer.

§ 19-20. Permit Required, When. [Ord. No. 271 §8, 9-2-1969]

Before commencement of construction of a private or semi-public sewage disposal system or treatment facility where suitable public sewers are not available, or where the city approves such systems for treatment or for pretreatment of wastes before discharge to the public sewer, the owners shall first obtain a construction permit from the City of Eureka. The application for the permit shall be made on a form furnished by the city, which the applicant shall supplement by plans, specifications and other data including the results of soil absorption tests performed as required by the city if sub-surface disposal is proposed. A permit and inspection fee of fifteen dollars ($15.00) shall be paid to the city at the time the application is filed. On and after the effective date of this article the city shall exclusively issue permits for private and semi-public sewage disposal or treatment facilities.

§ 19-21. City Inspections, When. [Ord. No. 271 §9, 9-2-1969]

The city shall be allowed to inspect the work at any stage of construction and in any event, permittee shall notify the city when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the city.

§ 19-22. Compliance with State Recommendations. [Ord. No. 271 §10, 9-2-1969]

The type, capacities, location, and layout of a private, semi-public, or industrial sewage disposal system or treatment facility shall comply with all recommendations of the Water Pollution Board of the State of Missouri.

§ 19-23. Owner to Operate, Maintain and Allow Inspections. [Ord. No. 271 §11, 9-2-1969]

The owner shall operate and maintain any private, semi-public, or industrial sewage disposal or treatment facilities in an efficient and satisfactory manner at all times, at no expense to the city. Such facilities shall be subject to inspection by the Mayor or his designated representative at all times.

§ 19-24. Discharge into Sanitary Sewers Restricted. [Ord. No. 271 §12, 9-2-1969]

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters into any sanitary sewer. Any connection, drain or arrangement which will permit any such waters to enter any sanitary sewer shall be deemed to be a violation of this section and this article.

§ 19-25. Unlawful Connections. [Ord. No. 271 §13, 9-2-1969]

It shall be unlawful for any plumber, drainlayer, contractor, or any other person constructing a sewer, a house or building connection, an industrial connection sewer connected to a sanitary sewer to leave such connection open, unsealed, or incomplete in such manner that will permit storm or surface water to enter into any sanitary sewer within the city. All such openings shall be tightly sealed at all points whenever work is not actually in progress on such sewer or connection.

§ 19-26. Discharge of Storm Water into Specifically Designated Sewers. [Ord. No. 271 §14, 9-2-1969]

Storm water and all other unpolluted drainage shall be discharged into such sewers as are specifically designated as combined sewers or storm sewers, or to a drainage channel or natural outlet approved by the Mayor. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the Mayor to a storm sewer, combined sewers, drainage channel or natural outlet.

§ 19-27. Discharge of Harmful Substances Unlawful. [Ord. No. 271 §15, 9-2-1969]

No person shall discharge or cause to be discharged to any public sewers any of the following substances, materials, waters, or wastes if it appears likely that such wastes will harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or will otherwise endanger life, limb, public property, or constitute a nuisance. The substances are:

(a) Any gasoline, benzine, naphtha, fuel oil, or mineral oil or other flammable or explosive liquid, solid, or gas.

(b) Any water or wastes that contain more than ten (10) milligrams per liter by weight of the following gases: Hydrogen sulphide, sulphur dioxide, or nitrous oxide.

(c) Any garbage that has not been properly shredded to a degree that all particles will be carried freely under the flow conditions of the sewer and with no particle greater than one-half (½) inch in any dimension.

(d) Any solid or substance in quantities capable of causing obstruction to the flow in sewers, or interference with the proper operation of the sewage works such as: ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, beer or distillery slops, chemical residues, paint residues, cannery waste bulk solids, shredded paper, cardboard or similar wastes.

(e) Any noxious or malodorous gas or substance, which either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

(f) Any waters or wastes containing in excess of two (2) milligrams per liter of cyanides as CN.

(g) Any water or wastes which contains any substance that will solidify or become discernably viscous at temperatures between thirty-two (32) degrees to one hundred fifty (150) degrees Fahrenheit such as: grease, oil or any other viscous substances in quantities capable of causing obstruction to the flow in sewers or interference with the proper operation of any sewage works.

§ 19-28. Permit Required for Certain Discharge. [Ord. No. 271 §16, 9-2-1969]

(a) Unless a permit has been obtained from the city, no person shall discharge or cause to be discharged to any public sewers any of the following:

(1) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Centigrade).

(2) Any water or wastes, acid or alkaline in reaction, and having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewage works. Free acids and alkalis of such wastes must be neutralized, at all times, within a permissible range of pH between 5.5 and 10.5.

(3) Any water or wastes containing a toxic or poisonous substance or of high chlorine requirement in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters or storm water overflows or the effluent of the sewage treatment plant.

(4) Materials such as copper, zinc, chromium, and similar toxic substances shall be limited to the following average quantities in the sewage as it arrives at the treatment plant and at no time shall the hourly concentration at the sewage treatment plant exceed three (3) times the average concentration given herein regardless of rate of sewage flow:

Iron as Fe	15 milligrams per liter
Chromium as Cr (hexavalent)	5 milligrams per liter
Copper as Cu	3 milligrams per liter
Zinc as Zn	2 milligrams per liter
Nickel	2 milligrams per liter
Cadmium	2 milligrams per liter
Chlorine Requirement	30 milligrams per liter

defined as the amount of chlorine in milligrams per liter which must be added to produce a residual of 0.1 milligrams per liter after a contact period of 15 minutes

and with the contributions from individual establishments subject to control in volume and concentration by the mayor.

(5) Any water or wastes containing the discharge of strong acids, iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(6) *Any radioactive wastes.* The introduction of radioactive waste into the city sewers shall be permitted only if a special permit is obtained prior to introducing such wastes. In general the decision of the city will be in accordance with the principles set out in the Atomic Energy Act of 1954 (68 Stat. 919), Part 20, Sub-Part D-Waste Disposal, Section 20.313 on successor principles as established by the Atomic Energy Commission.

(7) Any wastes which are highly colored such as concentrated dye wastes or spent tanning solutions, or wastes which are of unusual volume concentration of solids, or composition, as for example in total suspended solids of inert nature (such as fuller's earth) and/or in total dissolved solids (such as sodium chloride, calcium chloride, or sodium sulfate) or which have a Biochemical Oxygen Demand (B.O.D.) which exceeds the standards of normal sewage.

(8) Any water or wastes which by interaction with other water or wastes in the public sewer system, releases obnoxious gases; or develops color of undesirable intensity; or forms suspended solids in objectionable concentration; or creates any other condition deleterious to structures and treatment processes.

(9) Any water or wastes containing emulsified oil and grease exceeding, on analysis, an average of one hundred (100) milligrams per liter (eight hundred thirty-three (833) pounds per million gallons) of hexane soluble matter.

NOTE: The poundage permitted per day from any establishment may be subsequently limited depending upon hexane soluble content of the sewage delivered to the Sewage Treatment Works.

(10) Any water or wastes that contain phenols in excess of 0.50 milligrams per liter. These limits may be modified so that the aggregate of contributions throughout the City of Eureka area of service do not cause treatment difficulties, or produce a plant effluent discharge to the receiving water, which may be prohibited.

(b) To obtain a permit as required herein any person may file an application on a form to be furnished by the City of Eureka. If after examining the information contained in the application it is determined by the city that the characteristics of the proposed discharge will not damage the city sewage system and related appurtenances or interfere with the sewage treatment processes, or will not cause undue pollutional effects on the waters of the state, if discharged into the city's sewage system, then a permit may be issued allowing the discharge of such wastes into the city's sewage system. Said permit shall be issued and then shall be renewable upon re-examination.

§ 19-29. Exceeding Normal Sewage Standards — Procedure. [Ord. No. 271 §17, 9-2-1969]

All persons or companies who discharge sewage, industrial wastes, water or other liquid which exceed the standards of normal sewage to the sewerage system, or to a stream, or to both, shall fill in and file with the City of Eureka an industrial wastes questionnaire furnished by the city which shall contain pertinent data, inclusive of quantity of flow and an analysis of such sewage, industrial waste, water or liquid so discharged. This shall be accomplished by the "person or company" in conjunction with the officials of the City of Eureka and within ninety (90) days after receipt of such questionnaire unless otherwise authorized.

§ 19-30. Manholes — Requirements. [Ord. No. 271 §18, 9-2-1969]

When required by the City of Eureka, the owner of any property served by a building or plant sewer or sewers carrying industrial wastes shall provide a suitable manhole or manholes in the building sewer to facilitate observation, sampling and measurement of all of the wastes from his premises. Such manholes, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City of

Eureka. The manhole shall be provided by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

§ 19-31. Basic Standards. [Ord. No. 271 §19, 9-2-1969]

The basic standard for all measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", as prepared and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation, and some other method mutually agreed upon and approved by the State Water Pollution Board.

§ 19-32. Gaging, Sampling, Point of Discharge Manholes. [Ord. No. 271 §20, 9-2-1969]

Normal operation of any gaging and sampling manhole or point of discharge, shall be the time required, as determined by the City of Eureka to obtain representative samples of the effluent discharged in proportion to flow and to conclude the necessary analytical examinations of the samples obtained.

§ 19-33. Property Owners to Rear Costs of Additional Manhole Samplings. [Ord. No. 271 §21, 9-2-1969]

In the event more than two (2) gaging and sampling manholes or points of discharge are necessary, the additional costs of the installations of measurement devices to be used and the costs of the personnel required for operation of the manholes or sampling points and the subsequent laboratory work involved, shall be borne by the owners of the property.

§ 19-34. Manholes Using Hydraulic Equipment. [Ord. No. 271 §22, 9-2-1969]

Where a plant or premise discharges its effluent to a manhole or manholes used as gaging and sampling points, and the effluent is of such volume and duration that installation of hydraulic equipment cannot be made until the plant or premise ceases its operation, by weekend closedown, the costs of making the installations, involving overtime pay, shall be borne by the plant or premise. If the plant or premise elects to make the hydraulic installations with their own personnel, the installation shall be set up in a manner approved by the City of Eureka.

§ 19-35. Property Owner to Pay Excess Costs — When. [Ord. No. 271 §23, 9-2-1969]

In the event that a period in excess of forty (40) hours per week is required for City of Eureka personnel to properly gage, sample and analyze the discharged effluent, the extra costs shall be borne by the owner of the property.

§ 19-36. City of Eureka — Right to Enter and Set up Operation. [Ord. No. 271 §24, 9-2-1969]

The City of Eureka shall have the right to enter and set up, on company property, such devices necessary to conduct a gaging and sampling operation and to begin such

operation upon presentation of proper identification on arrival without advance notice to the company. While performing the work, the City of Eureka shall observe all safety rules applicable to the premises, established by the company.

§ 19-37. Submission of Information for Approval and Permit. [Ord. No. 271 §25, 9-2-1969]

Plans, specifications and any other pertinent information relating to treatment or pretreatment facilities, holding tanks, control and neutralization equipment or other facilities to be utilized in the treatment or control of wastes discharged to any natural outlet, drainage channel, public sewer or watercourse within the City of Eureka shall be submitted for the approval of the City of Eureka, and no construction of such facilities shall be commenced until said plans are approved and a permit issued by the City of Eureka.

§ 19-38. Water or Waste Facilities Subject to Inspection. [Ord. No. 271 §26, 9-2-1969]

Where private or semi-public facilities are provided for the treatment, pretreatment, control or neutralization of waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense and shall be subject to periodic inspection by the City of Eureka.

§ 19-39. Monthly Summary Report. [Ord. No. 271 §27, 9-2-1969]

The owner shall maintain operating records and shall submit to the City of Eureka in a form prescribed by the city a monthly summary report, of the character of the influent and effluent to show the performance of the treatment facilities.

§ 19-40. Grease, Oil and Sand Interceptors. [Ord. No. 271 §28, 9-2-1969]

Grease, oil and sand interceptors or traps shall be provided when, in the opinion of the Mayor they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients except that such interceptors or traps shall not be required for private living quarters or dwelling units. Prior to the installation of any interceptors or traps, plans shall be submitted to the City of Eureka for approval. All interceptors and drains shall be located so as to be readily and easily accessible for cleaning and inspection.

Grease and oil interceptors or traps shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature.

They shall be of substantial construction, water-tight, and equipped with easily removable covers which, when bolted in place, shall be gas-tight and water-tight, unless otherwise authorized by the City of Eureka.

Where installed, all grease, oil and sand interceptors or traps shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

§ 19-41. City to Repair Certain Damage from Drainage — Person to be Liable for. [Ord. No. 271 §29, 9-2-1969]

If the drainage from any gasoline filling station, garage, refining plant, chemical plant, packing house, slaughter-house, lard rendering establishment, dairy, steam engine, steam boiler, steam plant or any other establishment shall cause a deposit or obstruction or damage to any public sewer the Mayor shall cause such deposit or obstruction to be removed promptly or cause such damage to be repaired, keeping an account of the cost of such work including materials, labor and supervision and shall certify an account of such cost to the person from whose establishment or premises the material causing such deposit, obstruction or damage came and if such person shall fail, neglect or refuse to pay the sum specified to the City Clerk of the City of Eureka within thirty (30) days after demand has been made, the person shall be deemed guilty of a misdemeanor.

§ 19-42. Furnishing Records. [Ord. No. 271 §30, 9-2-1969]

It shall be the duty of every person, public utility, or institution holding a permit to operate a sewerage system or sewage treatment plant to furnish records for ascertaining compliance with this article as may be required by the Mayor.

§ 19-43. Sewage Systems to be in Compliance with Article. [Ord. No. 271 §31, 9-2-1969]

The Mayor shall cause to be made such surveys, investigations, and studies of sewage, sewerage systems, watercourses, and streams receiving sewage and drainage as may be necessary to determine that all sewerage systems are installed, operated, and maintained in compliance with the provisions of this article.

§ 19-44. Authorized City Employee May Gain Access — When. [Ord. No. 271 §32, 9-2-1969]

Any duly authorized employee of the City of Eureka bearing proper credentials and identification shall be permitted to gain access to such premises as may be necessary for the purpose of inspection and observation, measurement, sampling and testing, in accordance with the provisions of this article.

§ 19-45. Obstructions Unlawful — Exceptions. [Ord. No. 271 §33, 9-2-1969]

It shall be unlawful to place any dam or other obstruction in any drainage facility or watercourse unless permission to do so is expressly granted in writing by the Mayor.

§ 19-46. Willful Damage to Sewage Works. [Ord. No. 271 §34, 9-2-1969]

It shall be unlawful for any unauthorized person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface, alter, or tamper with any structure, appurtenance, or equipment which is a part of the sewerage system of the City of Eureka.

§ 19-47. Violation of Section 19-19 or 19-24. [Ord. No. 271 §35, 9-2-1969]

Any person found to be violating the provisions of Section 19-19 or 19-24 of this article shall be given written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice satisfactorily correct said violation.

§ 19-48. Violation of Time Limit in Section 19-47. [Ord. No. 271 §36, 9-2-1969]

Any person who shall continue any violation beyond the time limit provided for in Section 19-47 of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars ($100.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment, for each violation. Each day in which any violation shall continue shall be deemed a separate offense.

§ 19-49. Continued Violation — Abatement — Lien. [Ord. No. 271 §37, 9-2-1969]

If any person shall continue a violation of Section 19-19 or Section 19-24 of this article beyond the time limit provided in the notice to correct the violation the Mayor may order the work of correcting the violations of Section 19-24 of the article to be done by the city and shall make a charge against the owner or occupier of such premises for the reasonable cost of such work. If such bill is unpaid after thirty (30) days, notice may be filed in the Office of the Recorder of Deeds of St. Louis County whereupon the bills shall become a lien against the property involved.

§ 19-50. Violation — Misdemeanor. [Ord. No. 271 §38, 9-2-1969]

Any person violating any provision of this article other than Section 19-19 or Section 19-24 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars ($100.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment, and each day of violation shall constitute a separate offense.

Chapter 19A

SIGNS

Editor's Note — Ord. no. 1520 §1, adopted April 3, 2001, repealed this entire ch. 19A enacting the new provisions set out herein. Former ch. 19A derived from ord. no. 435 §§1 — 5, 7 — 8; ord. no. 616 §1; ord. no. 648 §§1 — 8, 10 — 11; ord. no. 930 §§2 — 5; ord. no. 948 §2, 3-6-1990; ord. no. 963 §1, 7-3-1990; ord. no. 964 §1, 7-3-1990; ord. no. 1040 §§1 — 7, 11-17-1992; ord. no. 1098 §2, 5-3-1994; ord. no. 1139 §§1, 3 — 4, 11-15-1994; ord. no. 1165 §§1 — 2, 5-16-1995; ord. no. 1209 §§3 — 5, 1-18-1996; ord. no. 1214 §1, 2-20-1996; ord. no. 1234 §2, 7-2-1996; ord. no. 1293 §1, 6-17-1997; ord. no. 1311 §1, 9-16-1997; ord. no. 1313 §1, 10-7-1997; ord. no. 1328 §1, 12-2-1997; ord. no. 1349 §§1 — 2, 4-7-1998; ord. no. 1463 §1, 7-5-2000; ord. no. 1494, 11-21-2000; ord. no. 1501, 12-19-2000.

ARTICLE I
General [1]

Section 19A-1. Purpose. [Ord. No. 1681 §1, 3-4-2003]

The purpose of these sign regulations is to preserve the public health, convenience, welfare and/or safety within the City of Eureka by maintaining the high aesthetic quality of the community while at the same time recognizing the importance of signage in:

(a) Fostering the economic viability of the community, and

(b) Providing safe and concise directional information designed to facilitate traffic flow.

(b) The effect of this Chapter is:

(1) To establish a permit system that allows a variety of types of signs on business premises and a variety of signs on other premises, subject to this Chapter and its permit procedures;

(2) To allow certain small, unobtrusive signs incidental to the principal use of a site without a permit if such signs meet the substantive requirements of this Chapter;

(3) To allow a variety of types of non-commercial signs subject to the same substantive and permit requirements that control on-premise signs;

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[1]. **Editor's Note — ord. no. 1681 §1, adopted March 4, 2003, repealed sections 19A-1 — 19A-22 and enacted the new provisions set out herein. Former sections 19A-1 — 19A-22 derived from ord. no. 1520 §1, 4-3-2001; ord. no. 1524 §§1 — 5, 4-17-2001; ord. no. 1526 §§1 — 4, 5-15-2001; ord. no. 1530 §§1 — 2, 6-5-2001; ord. no. 1533 §1, 6-21-2001; ord. no. 1540 §§1 — 4, 7-17-2001; ord. no. 1542 §1, 8-7-2001; ord. no. 1563 §1, 11-6-2001; ord. no. 1576 §§1 — 2, 12-18-2001; ord. no. 1591 §1, 2-19-2002.**

(4) To allow certain types of signs to make minor encroachments of the public right-of-way, if specially permitted; and

(5) To prohibit all signs not expressly permitted by this Chapter.

Section 19A-2. Definitions. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 1712 §1, 8-19-2003; Ord. No. 1714 §1, 9-2-2003; Ord. No. 1834 §1, 6-1-2005; Ord. No. 2080 §1, 3-3-2009]

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

ALLEY — A private or narrow passageway, typically of less than a street, which normally serves as a secondary means of ingress and egress to property abutting thereon.

BANNER — A temporary paper, plastic or cloth device hung to attract attention to a business or special event.

BILLBOARD — A sign that advertises products or services which are not on the premises of the owner or place of business to which they apply; including wall signs and those otherwise attached to buildings and structures, as well as those not attached to buildings and supported by uprights or braces on the ground.

BILLBOARD SIGN EXTENSION (a.k.a. CUT-OUT) — A billboard advertising copy design element that protrudes beyond the confines of a billboard sign face area.

BUILDING COMMISSIONER — The Building Commissioner of the City or his designee.

CITY — The City of Eureka, Missouri.

CO-BRANDED RESTAURANTS AND GASOLINE SERVICE STATIONS — A development combining one (1) restaurant facility and one (1) gasoline service station facility on the same lot. The restaurant and gasoline service station may be two (2) freestanding buildings or one (1) combined-use building.

COMMERCIAL MESSAGE — Any sign wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

COPY — The wording or graphics on a sign surface.

DEVELOPMENT — A multiple lot subdivision or a single parcel or assemblage of abutting parcels containing multiple structures and/or uses.

ELECTRONIC MESSAGE CENTERS — A sign whose alphabetic, graphic or symbolic informational content can be changed or altered on a fixed display surface, composed of electrically illuminated or mechanically-driven changeable segments, either by means of preprogramming or by computer-driven electronic impulses. Electronic message centers shall not have continuous scrolling or other constant movement of the sign message.

ERECT — To build, construct, reconstruct, attach, hang, rehang, alter, place, affix, enlarge, move or relocate and includes the painting and repainting of existing sign structures.

FACING — The length of the lot along the street side, but which does not provide both free ingress and egress. The length of a lot bordering more than one (1) street is considered separate for each street.

FLAG — Any fabric or bunting containing distinctive colors, patterns or symbols.

FLAG, NON-OFFICIAL — Any flag other than an official flag including, but not limited to, trademark, sports team and holiday flags.

FLAG, OFFICIAL — Any flag of the United States, the State of Missouri, the County of St. Louis, the City of Eureka, the Rockwood School District, the Eureka Fire Protection District, the United States military, any other governmental unit or any nationally recognized veterans' organization including, but not limited to, the American Legion, Veterans of Foreign Wars and/or POW/MIA.

FRONTAGE — The length of the lot along the street side providing both free ingress and egress. The length of a lot bordering more than one (1) street is considered separate for each street.

GARAGE SALE — The offering for sale of multiple items of personal property on property zoned and occupied as a residence.

GASOLINE SERVICE STATION — Any business that dispenses or is designed to dispense gasoline and oil for use in motor vehicles and boats.

GASOLINE SERVICE STATION CANOPY — A freestanding structure located on the same premises as a gasoline service station affording protection from the elements to persons or property thereunder.

LOT — A single parcel or contiguous assemblage of parcels utilized for a common purpose.

OLD TOWN — For purposes of this Chapter, "Old Town" shall be defined as the area approximately bounded to the north by the southern right-of-way line of East and West Fourth Streets, to the west by the eastern right-of-way line of South West Avenue and the western property lines of parcels located at the western end of Meramec Lane and Sheerin Avenue, to the south by the southern property lines of parcels located on the south side of Dreyer Avenue and to the east by western property lines on parcels fronting on Highway W from East Fourth Street south to Old Town Drive. A map exhibit which sets forth the exact Old Town boundaries is on file in the City Clerk's office.

PLINTH — A monument sign base that rests directly on the ground designed as a support unit, architectural unit or decorative design element.

SIGN — A structure that includes any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interest of any person when the same is placed in view of the general public.

SIGN, ABANDONED — A sign that no longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, project or activity conducted or product available on the premises where such sign is displayed.

SIGN, ANIMATED — Any sign that includes action or motion.

SIGN, AWNING — A sign permanently affixed to an awning.

SIGN, CONSTRUCTION INFORMATION — A sign used during the construction of new buildings or reconstruction of or additions to existing buildings, which identifies the project or future use of site and provides information denoting the owner, architect, engineer, contractor and/or financing institutions of the project.

SIGN, DAILY ADVERTISING — A freestanding sign (e.g., A-frame, sandwich boards) that is displayed during hours in which a business is open and removed during hours in which a business is closed.

SIGN, DIRECTIONAL — A sign that indicates a direction for vehicular or pedestrian traffic or other movement.

SIGN, DIRECTORY — A sign containing three (3) or more names within a single sign.

SIGN, DRIVE-THRU MENU BOARD — A sign displaying food, beverages or other services offered for sale at a business with drive-thru service.

SIGN, FLASHING — Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation or an externally mounted intermittent light source. Automatic changing signs such as public service time, temperature and date signs or electronically controlled message centers are not defined as "flashing signs".

SIGN, FLUTTERING — A sign which flutters or is made of flexible materials which moves with the wind or by some other artificial means including, but not limited to, pennants, banners, balloons, spinning devices and streamers.

SIGN, FREESTANDING — Any sign supported by structures or supports that are placed on or anchored in the ground and that is independent from any building or other structure.

SIGN, GASOLINE SERVICE STATION PRICE — A sign containing thereon the price per gallon of gasoline or diesel fuel sold at said station.

SIGN, HELP WANTED — A sign advertising the employment opportunities of a business.

SIGN, ILLUMINATED — Any sign that is illuminated by light source mounted on or in the sign or at some other location.

SIGN, INFORMATION — A sign that gives parking, building address, fire protection, traffic flow (other than directional signs), height clearance, pedestrian, no trespassing and other similar information, and that does not advertise a business or use located on lot or parcel.

SIGN, INTERIOR LOGO — An interior sign erected so as to be visible from a street but not attached to a window and identified as a registered trademark, logo or symbol.

SIGN, MEMORIAL OR TABLET — The permanent part of a building that denotes the name of the building, date of erection, historical significance, dedication or other similar information.

SIGN, MONUMENT — Any detached sign on the same lot or parcel as the use it advertises which has its bottom portion attached to a proportionate base or plinth, integrated ground planter box or structural frame, the width of which shall be a minimum of one-half (½) the width of the widest part of the sign face.

SIGN, OCCUPATIONAL/IDENTIFICATION — A wall sign identifying the name of a person occupying a building and mounted adjacent to the main entrance of the building.

SIGN, OFF-SITE RESIDENTIAL SUBDIVISION DIRECTIONAL — A temporary sign allowed on a limited basis as set forth in the Municipal Code for the purpose of directing individuals to a residential subdivision development located within the City of Eureka or within one (1) mile of its corporate limits.

SIGN, PERPENDICULAR WALL — A projecting sign erected perpendicular to the building upon which it is placed.

SIGN, POLE — Any freestanding sign located on the same lot or parcel as the use it advertises which is supported by one (1) or more stationary poles.

SIGN, POLITICAL — A temporary sign advocating or opposing any political proposition or candidate for public office.

SIGN, PORTABLE — Sign that is not permanently affixed to a building, structure or ground, and that may be readily moved or relocated.

SIGN, PROJECTING — Any letter, word or device used in any sign in a different plane or protruding outwardly from the building or structure to which it is attached.

SIGN, PYLON — See "SIGN, POLE".

SIGN, ROOF — Any sign erected on a roof, excluding wall signs. The generally vertical plane of a mansard-type roof shall be interpreted as the same as a wall of a building.

SIGN, ROUTE 66 HISTORIC — Any sign which has been designated an historic landmark by the government of the United States, State of Missouri, County of St. Louis or the City of Eureka as a result of the sign's location along the original Route 66 Highway.

SIGN, TEMPORARY — Any sign intended for a limited or intermittent period of display.

SIGN, WALL — A sign attached to the wall of a building or against the generally vertical plane of a mansard-type roof with the plane of the sign face parallel to the plane of the wall below the roof line.

SIGN, WINDOW — A sign internally or externally affixed on a window or glass door.

SIGN AREA — A total area of the space to be used for information purposes, including the spaces between open-type letters and figures, including the background structure, or other decoration or addition which is an integral part of the sign. Sign supports shall be excluded in determining the area of a sign. For purposes of calculating sign area to determine compliance with the provisions of this Chapter, the total sign area for a double-faced sign where the two (2) faces are substantially parallel shall be the sum of the area of both faces divided by two (2), and where the two (2) faces are not substantially parallel, said total allowable area shall be the sum of the area of each face.

SIGN FACE — See "SIGN AREA".

SPECIAL DISPLAYS — Signs or an assemblage of materials used for holidays or promotion of civil welfare or charitable purposes.

STREET — An open, generally public way being utilized for the passage of vehicular traffic. However, for the purposes of this Chapter, a point of egress and ingress to a lot, such as a driveway, shall not be considered a street, nor shall an alley be considered a street.

STREET FACING — See "FACING".

STREET FRONTAGE — See "FRONTAGE".

Section 19A-3. Legal Non-Conforming Signs. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 1740 §1, 1-6-2004; Ord. No. 2125 §1, 6-15-2010; Ord. No. 2158 §1, 2-15-2011]

(a) *Notification Of Non-Conformity.* After the enactment of this Chapter, the Building Commissioner or his designees shall use efforts so as to notify either personally or in writing the sign owner, sign user or owner of the property on which the sign is located of the following:

(1) The sign's non-conformity; and

(2) Whether the sign is eligible for characterization either as legal non-conforming or unlawful.

(3) If the sign owner, user or owner of the property cannot be located, the notice may be affixed in a conspicuous place to the sign or to the business premises with which the sign is associated.

(4) That the sign owner, sign user or owner of the property has the right to produce any legislative authority, including authorization by the City or Board of Adjustment, for the sign in question which he or she believes may affect the lawful status of the sign.

(b) Any sign located within the City limits on the date of adoption of this Chapter (Ord. No. 1494, November 21, 2000), or located in an area annexed to the City thereafter, which does not conform with the provisions of this Chapter, is eligible for characterization as a legal non-conforming sign, if the sign was in compliance with applicable law on the date of adoption of this Chapter.

(c) *Loss Of Legal Non-Conforming Status.* A legal non-conforming sign shall immediately lose its legal non-conforming status if:

(1) The supporting structure of a sign is altered in any way or if the sign area is increased in any way except as provided in Subsection (d).

(2) The sign structure is relocated, except that any such sign which is hereafter required to be moved by a governmental body for the purpose of construction, relocation, widening or improvement of a street, highway or other public purpose, may be relocated once on the same lot so long as no changes other than location are made to the sign. Such a sign, once relocated, is still considered a legally non-conforming sign and bound by this Section.

(3) Any pole sign that also displayed an official flag prior to the date of adoption of this Chapter (Ord. No. 1494, November 21, 2000), which is hereafter required to be moved by a governmental body for the purpose of construction, relocation, widening or improvement of a street, highway or other public purpose, shall be allowed to be moved on the lot one time, provided however, that it is used solely as a flagpole not exceeding eighty (80) feet in height and not as a pole sign. Any signs on the pole shall be removed upon relocation and it shall be designated as an allowable flagpole by the property owner. Upon relocation, the official flag displayed may be the same size as was flown prior to the date of adoption of this Chapter (Ord. No. 1494, November 21, 2000). Both the flagpole and the flag size shall be considered legal non-conforming uses subject to the terms and provisions of this Section.

(4) The sign is removed or replaced, except for copy on a changeable copy sign and as provided by Subsection (d). If a changeable copy sign is left blank for a period of time exceeding sixty (60) calendar days, the non-conforming sign shall be classified as an abandoned sign and removed.

a. In the case of gasoline service stations, an existing manual changeable copy price sign may be replaced with a digital changeable copy price sign if the new sign does not exceed the sign area or height of the existing legal non-conforming sign.

(5) If the business or service advertised or identified by a non-conforming sign ceases to be conducted for a period exceeding thirty (30) calendar days, the non-conforming sign shall be classified as an abandoned sign and removed, however, if authorized by the board of aldermen, such signage may remain for an approved period of time conditioned upon the property owner actively marketing said property for lease or sale.

(6) Should any non-conforming sign be damaged by any means, other than vandalism, to the extent of over sixty percent (60%) of its surface area or structure, it shall not be reconstructed, except in conformance with the requirements of this Code. Non-conforming signs which are damaged by vandalism to the extent of over sixty percent (60%) of their physical value

must be restored within sixty (60) days or removed or brought into compliance with the provisions of this Chapter.

(7) On the occurrence of any one of Section 19A-3(c)(1) through (5) above, the sign shall be immediately brought into compliance with this Code with a new permit secured therefore or shall be removed pursuant to Section 19A-6.

(d) If any existing sign is removed or replaced for the purpose of changing the business, occupation or tenant advertised or identified, except as provided herein, it shall be considered a new sign, and shall not be allowed unless it is brought into compliance with this Chapter and all necessary permits are obtained. The repainting or replacement of panels on an existing sign shall not be considered a new sign so long as the sign area is not increased in any manner. The repainting or replacement of panels on a billboard shall not be considered a new sign. Ordinary maintenance or repair of an existing sign to a safe condition shall not be cause to classify the sign as a new sign. When there is no change of use or ownership, an existing legal non-conforming sign may be replaced with a new sign only for purposes of reflecting business name or brand name changes as long as the new sign does not exceed the sign area or height of the existing legal non-conforming sign.

Section 19A-4. Approval of Signs. [Ord. No. 1681 §1, 3-4-2003]

Approval of all signs, unless hereinafter exempted, must be obtained from the Building Commissioner.

Section 19A-5. Inspections. [Ord. No. 1681 §1, 3-4-2003]

The Building Commissioner shall inspect all signs after erection is completed for compliance with this Chapter. A St. Louis County electrical permit shall be obtained and an electrical inspection shall be performed as applicable.

Section 19A-6. Sign Removal. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 1889 §1, 2-7-2006; Ord. No. 2125 §2, 6-15-2010]

(a) The Building Commissioner may remove signs or advertising devices that:

(1) Do not have the required permit.

(2) Have an expired permit.

(3) Are a public nuisance as defined by ordinance.

(4) Are unsafe, hazardous or unlawful.

(5) Violates any of the provisions of this Chapter.

(b) If any sign, except those signs placed on property not owned or leased by the person responsible for the erection or maintenance of the sign, is deemed to require removal under the provisions of this chapter, the building commissioner shall order it removed and the owner or operator of the signage or of the establishment the signage is serving shall be notified of the violation and be given up to fifteen (15)

days at the city's discretion in which to correct the violation, however, in the case of signage under Section 19A-13(o), such may remain for up to six (6) months if the property owner can evidence that said property is being actively marketed for lease or sale. If the order is not complied with, the building commissioner shall have it removed at the expense of the person responsible for the erection or maintenance of the sign, and in the event that all costs associated with the city having such sign removed is not recovered from the responsible party, said cost shall become a lien on the property; such lien to be certified to the St. Louis County recorder of deeds by the city clerk. If any sign is erected on property not owned or leased by the person responsible for the erection or maintenance of the sign, such signage may be removed immediately by the building commissioner without notice and any associated costs incurred by the city for the removal of such signage shall be recovered from the responsible party.

(c) The Building Commissioner is authorized to go upon any premises in the City for purposes of removing signs under the provisions of this Section. Signs removed by the Building Commissioner shall be retained for the owner's account for a period of thirty (30) days and shall be returned to the owner upon payment of the expenses of removal. If not claimed within that time, they shall become the property of the City and may be destroyed or sold for the payment of the expense of removal. If sold, any excess from the proceeds of the sale shall be returned to the owner. In addition, the City shall in no way be held financially responsible for any damages that may be incurred as a result of said removal.

Section 19A-7. Violations; Penalty. [Ord. No. 1681 §1, 3-4-2003]

Any person violating this Chapter or any of its provisions shall be subject to the general penalty provision pursuant to Section 1-7 of this Code. Each day and instance of violation shall constitute a separate offense and at the discretion of the Building Commissioner a summons may be issued for each separate offense.

ARTICLE II
Permits and Fees

Section 19A-8. Permit Required. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 1772 §1, 8-3-2004]

(a) Unless otherwise provided for, it shall be unlawful for any person to erect any sign without first obtaining a permit from the Building Commissioner and making payment of the fee as herein required.

(b) Applications for permits shall be submitted and accompanied by two (2) sets of plans showing proposed copy of sign with location, sign area, construction details, materials and illumination details, existing sign locations and sizes, if any. In addition, plans for monument signs (and pole signs if applicable) shall include the length of street frontages (and street facings if applicable) in linear feet, and plans for wall signs shall include building elevation with height and width dimensions shown for the face of the building that the sign is proposed to be installed upon. When proposing pole signs, the sign plan shall include the elevation of the proposed pole sign location and the adjacent Interstate 44 pavement elevation. The Interstate

44 pavement elevation measurement shall be at the closest point perpendicular to the subject sign location.

(c) All applications shall be signed by the owner of the building, structure or property.

(d) All illuminated signs shall be subject to the provisions of the Electric Code and permit fees required thereunder.

(e) Any permit issued will expire in six (6) months if construction is not completed or an extension has not been granted. Permits for temporary signs will expire at the end of allowable period as specified in Section 19A-18.

(f) The Building Commissioner shall deny a permit if the application shows the sign to be at variance with the regulations of this Chapter. Under the procedures outlined in Chapter 23, Article XIX, the applicant may pursue a variance from the Board of Adjustment.

(g) *Assignment Of Sign Permits.* A current or valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such information with the Building Commissioner.

Section 19A-9. Right of Appeal. [Ord. No. 1681 §1, 3-4-2003]

Anyone denied a permit for a sign under the provisions of this Chapter, or who has been ordered by the City to remove any existing sign, may appeal to the Board of Adjustment as provided for in Article XIX of Chapter 23. Owners or operators of signage under appeal are not exempt from being issued violation citations, and whenever deemed possible and reasonable by the City, the owner or operator of same must remove the subject signage during the appeal process in accordance with Section 19A-6. In the event that the owner or operator fails to remove said signage, the City may remove the sign or order the sign to be removed at the expense of the owner or operator of same.

Section 19A-10. Fees. [Ord. No. 1681 §1, 3-4-2003]

A flat fee of twenty-five dollars ($25.00) per sign permit will be charged and collected by the Building Commissioner upon filing of the application that, after permit issuance, shall not be refundable. In addition to the above fees, a charge of ten dollars ($10.00) will be assessed for each inspection performed by the Building Commissioner.

Section 19A-11. Exemptions. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 1706 §1, 8-5-2003; Ord. No. 1712 §2, 8-19-2003; Ord. No. 2049 §§1 — 2, 7-11-2008]

(a) The following signs shall be exempt from permits and fees:

(1) Signs, banners and special displays of the United States, the State of Missouri, the City of Eureka, the Rockwood School District, the Eureka Fire Protection District or churches, schools, civic or fraternal organizations located within the Eureka City limits. Signs, banners and special displays for other governmental units and churches, schools, civic or fraternal organizations

located outside of the Eureka City limits must be authorized by the Board of Aldermen. Signs of such entities may be erected in City right-of-way, other City-owned property and on other, off-site premises with the permission of the property owner for the explicit purpose of giving public notice of special events under the following conditions:

a. Signs erected in City right-of-way located adjacent to residentially utilized property shall have the permission of the adjacent property owner. Such signs shall not exceed six (6) square feet in sign area nor a height of four (4) feet from the ground and should be removed within two (2) days after the special event is completed. The placement of such signs in State right-of-way is not allowed.

b. Signs erected in City right-of-way located adjacent to a commercial, industrial, planned commercial or planned industrial zoned property shall have the permission of the adjacent property owner. Such signs shall not exceed thirty-two (32) square feet in sign area nor a height of six (6) feet from the ground and should be removed within two (2) days after the special event is completed. The placement of such signs in State right-of-way is not allowed.

(2) Banners or signs of the United States, the State of Missouri, the City of Eureka, the Rockwood School District or the Eureka Fire Protection District affixed to utility poles, provided approvals are received from the utilities and governmental units having jurisdiction over the poles and adjacent rights-of-way respectively. Banners or signs for other governmental units may be allowed if authorized by the Board of Aldermen.

(3) *Construction information signs.*

a. *Development construction information signs.* A maximum of two (2) for every twenty (20) acres or fraction thereof of the development site, each sign not to exceed forty-eight (48) square feet in outline area per facing. The maximum height of such signage shall not exceed fifteen (15) feet in height above the average existing finished grade elevation of the sign or the elevation of the adjacent street, whichever is higher. Such signage shall be removed within thirty (30) days after the last lot is sold within the development. In addition, such signage may only be erected on property owned or operated by the applicant.

b. *Building construction information signs.* For developments involving the construction, reconstruction or repair of multiple buildings in any "C", "M-1" or "M-2" zoning district, each individual building will be allowed one (1) building construction information sign not to exceed twenty-four (24) square feet in outline area per facing. The maximum height of such signage shall not exceed fifteen (15) feet in height above the average existing finished grade elevation of the sign or the elevation of the adjacent street, whichever is higher. Such signage shall be removed within thirty (30) days after the issuance of an occupancy

permit. In addition, such signage may only be erected on property owned or operated by the applicant.

(4) *Political signs.*

(5) Signs allowed for all uses in "R-1", "R-2", "R-3", "R-4", "R-5", "LLRD" and "FP". One (1) sign not exceeding twelve (12) square feet in sign area shall be allowed. Such sign shall not exceed four (4) feet in height from the surrounding grade when the sign is erected as a freestanding sign. Such sign shall conform to the definitions of a banner, wall or monument sign as found in Section 19A-2. Also, two (2) additional signs, that are visible to the public and do not exceed four (4) square feet in sign area, shall be allowed. Such signs shall not exceed four (4) feet in height from the surrounding grade when the sign is erected as a freestanding sign. Such signs shall also conform to the definitions of a banner, wall or monument sign as found in Section 19A-2. No such signs shall be used to convey a commercial message with the exception that signs used to identify a garage sale or the sale/lease of the property upon which the sign is placed shall be allowed.

(6) Signs relative to the sale, lease or rental of property erected on the offered property as follows:

a. *Commercial and industrial zones.* One (1) sign having a maximum of seventy (70) square feet in outline area per facing. No sign shall exceed ten (10) feet in height from the surrounding grade to the highest point on the sign. In those cases where a parcel or lot has more than one (1) street frontage and/or street facing, one (1) sign may be placed on each street frontage and/or street facing.

b. In commercial and industrial zones, one (1) banner not exceeding thirty-two (32) square feet in maximum sign area shall be allowed in lieu of the requirements listed above. If a banner is erected for the purpose of advertising the sale, lease or rental of property in commercial or industrial zones, no other banners, as provided for in Section 19A-18, may be erected simultaneously. No banner shall be allowed to be placed upon a roof.

(7) Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

(8) *Occupational/identification signs.* One (1) wall, non-illuminated sign or one (1) window sign not exceeding two (2) square feet in size displaying the name, occupation and/or service located upon the premises and the address.

(9) Signs erected inside a building excluding window and interior logo signs.

(10) *Help wanted signs.* One (1) sign advertising employment opportunities, located on the lot or parcel of the business advertising employment opportunities and not larger than eight (8) square feet. One (1) banner not

exceeding thirty-two (32) square feet in maximum sign area shall be allowed in lieu of the requirements listed above. However, if a banner is erected for the purpose of advertising employment opportunities, no other banners, as provided for in Section 19A-18, may be erected simultaneously. No banner shall be allowed to be placed upon a roof.

(11) *Open/closed signs and signs indicating business hours.* Such signs shall not exceed four (4) square feet and shall contain no other information than that necessary to highlight business hours and the open/closed status of a business.

(12) Window signs.

(13) Special displays.

(14) *Information signs.* Placement of such signage shall not create any safety or traffic hazards.

(15) Daily advertising signs.

(16) Banner sign erected relative to the sale, lease or rental of multiple-family dwelling property.

(b) The following signs shall be exempt from fees. Sign permits shall be required.

(1) Monument and wall signs for non-residential uses located in "R-1", "R-2", "R-3", "R-4", R-5", "LLRD" and "FP" zoning districts.

(2) Flags. As allowed by Section 19A-19.

(3) Banners. As allowed by Section 19A-18.

Section 19A-12. Revocation. [Ord. No. 1681 §1, 3-4-2003]

The Building Commissioner may revoke any sign permit which violates any provision of this Chapter, or which has been secured by subterfuge, or is void, or which has been issued by mistake, misunderstanding or error of the City.

ARTICLE III
Rules and Regulations

Section 19A-13. Prohibited Signs Generally. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 1712 §3, 8-19-2003; Ord. No. 1822 §1, 3-1-2005; Ord. No. 1938 §1, 8-29-2006]

(a) Any new sign erected in violation of any Chapter of this Code.

(b) Signs that might conflict with traffic control signs by shape, size, color, lighting or location.

(c) Exterior use of advertising devices such as banners, streamers, pennants, flags, balloons, lights (whether flashing, flickering, blinking or rotating), wind-operated devices and any other type of fluttering or flashing devices deemed in violation by the Building Commissioner and unless otherwise allowed in this Chapter.

(d) Signs placed or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property. However, this is not in any way intended to prohibit signs placed on or affixed to vehicles and trailers, such as permanent lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle or trailer.

(e) Animated signs and mechanical contrivances. No sign erected shall contain flashers, animators or mechanical movement or contrivances of any kind, excepting clocks and time and weather information.

(f) Paper posters and painted signs applied directly to the wall of a building or pole or other support.

(g) Signs painted or otherwise affixed on the inside or outside of automobile windows except for pricing information associated with the sale of new and used cars.

(h) Portable signs, except as provided for in Section 19A-18.

(i) Signs advertising an article or product not manufactured, assembled, processed, repaired, serviced or sold upon the premises upon which the sign is located, except as otherwise provided in this Chapter.

(j) Revolving signs of any type, including searchlights.

(k) Signs in residential districts for home occupation.

(l) Signs on parking lot light standards not relating to traffic control.

(m) Signs on public street right-of-way (other than public notices and unless otherwise allowed in this Chapter).

(n) Signs that are in disrepair or hazardous as determined by the Building Commissioner.

(o) Signs that relate to discontinued businesses or uses no longer in existence.

(p) Signs with words or colors confusing to motorists, or which block vision at entrances, intersections or sharp curves as determined by the Building Commissioner.

(q) Roof signs.

(r) Any sign not in compliance with the City Building or Electrical Codes, as amended, as to design, structural members and connections.

(s) Pole signs, except as otherwise provided for in this Chapter.

(t) Neon and other similar type signs located in such a manner as to attract public attention from outside the building, within "Old Town" as defined in this Chapter.

Section 19A-14. Standards Generally. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 1712 §4, 8-19-2003; Ord. No. 2086 §1, 6-2-2009]

(a) No sign may be erected or maintained so as to obstruct free ingress or egress to building openings, driveways, sidewalks or other passageways.

(b) All projecting signs shall have a minimum clearance above sidewalks of eight (8) feet and fourteen (14) feet over driveways and parking areas.

(c) The illumination of signs, if done, shall be so arranged that there is no interference with the safety of the public.

(d) Every sign in the City, including any sign exempted from normal permit requirements, shall be maintained in good repair and good structural condition at all times, including painted or otherwise finished surfaces, as well as all parts and supports which must be maintained in their design condition and position. Broken parts of signs must be replaced or repaired within fifteen (15) days of notification by the Building Commissioner and in such a manner as to maintain the appearance and structure of the sign as it was approved for installation.

(e) The Building Commissioner shall have the authority to order the painting, repair, alteration or removal of signs which have not been properly maintained or repaired, or which have become dilapidated or are abandoned, or which constitute a hazard to public safety.

(f) It shall be unlawful for any person to display upon any sign or other advertising device any obscene, indecent or immoral matter. The Building Commissioner shall order the immediate removal of signs containing obscene matter.

(g) No permanent signage, other than allowable window signs and unless otherwise allowed, shall be constructed of paper, nylon, fabric, or any other type of non-durable material.

(h) Price signs shall be permitted on outdoor displays. Such price signs shall not exceed four (4) square feet and shall be placed upon or immediately adjacent to the merchandise which it advertises.

(i) If the business or service advertised or identified by a sign that conforms to current signage regulations ceases to be conducted for a period exceeding thirty (30) calendar days, while the conforming signage structure may remain, the sign face shall be removed and replaced with a blank panel or other City-approved measures to ensure that the sign structure is weatherproofed. The remaining sign structure shall be maintained to the extent necessary so as to not become deteriorated or in a state of disrepair. [Ord. No. 2259 §1, 5-7-2013]

Section 19A-15. "R-1", "R-2", "R-3", "R-4", "R-5", "LLRD" and "FP" Zoning District Signs. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 1706 §2, 8-5-2003; Ord. No. 2049 §§1 — 2, 7-1-2008]

(a) The following signs are allowable in any "R-1", "R-2", "R-3", "R-4", "R-5", "LLRD" and "FP" zoning district.

(1) Signs allowed for all uses in "R-1", "R-2", "R-3", "R-4", "R-5", "LLRD" and "FP". One (1) sign not exceeding twelve (12) square feet in sign area shall be allowed. Such sign shall not exceed four (4) feet in height from the surrounding grade when the sign is erected as a freestanding sign. Such sign shall conform to the definitions of a banner, wall or monument sign as found in Section 19A-2. Also, two (2) additional signs, that are visible to the public and do not exceed four (4) square feet in sign area, shall be allowed. Such signs shall not exceed four (4) feet in height from the surrounding grade when the sign is erected as a freestanding sign. Such signs shall also conform to the definitions of a banner, wall or monument sign as found in Section 19A-2. No such signs shall be used to convey a commercial message with the exception that signs used to identify a garage sale or the sale/lease of the property upon which the sign is placed shall be allowed.

(2) Monument and wall signs for non-residential uses located in "R-1", "R-2", "R-3", "R-4", "R-5", "LLRD" and "FP" zoning districts.

a. *Monument signs.* One (1) monument sign per lot not exceeding ten (10) feet in height from the surrounding grade to the highest point on the sign. The bottom of the sign face shall not exceed a height of three (3) feet above the base of the sign. No monument sign shall be located any closer than ten (10) feet to any property line except that no monument sign shall be located closer than twenty-five (25) feet to any residentially utilized lot. No monument sign shall exceed thirty-two (32) square feet in outline area per face. In those cases where a parcel or lot has more than one (1) street frontage and/or street facing, one (1) monument sign may be placed on each street frontage and/or street facing.

b. *Wall signs.* One (1) wall sign not exceeding fifteen percent (15%) of the total square footage of the building face upon which it is placed having either street frontage or street facing.

1. In those cases where a parcel or lot has more than one (1) street frontage and/or street facing, one (1) wall sign may be placed on each street frontage and/or street facing side of the building and shall not exceed fifteen percent (15%) of the total square footage of the building face upon which it is placed.

2. Wall signs shall be face mounted on the building/structure projecting not more than fourteen (14) inches from the face of the building. Such signs shall not project above the parapet wall, mansard or other roofline, shall be recessed where involving a pitched roof location and shall be located so as to not create a safety or traffic hazard.

(3) *Construction information signs.*

a. *Development construction information signs.* A maximum of two (2) for every twenty (20) acres or fraction thereof of the development site, each

sign not to exceed forty-eight (48) square feet in outline area per facing. The maximum height of such signage shall not exceed fifteen (15) feet in height above the average existing finished grade elevation of the sign or the elevation of the adjacent street, whichever is higher. Such signage shall be removed within thirty (30) days after the last lot is sold within the development. In addition, such signage may only be erected on property owned or operated by the applicant.

(4) Directional signs shall not exceed eight (8) square feet in outline area per facing. Directional signs shall not exceed four (4) feet above the adjacent ground surface.

(5) *Subdivision identification signs.* Two (2) permanent subdivision identification signs not exceeding fifty (50) square feet in size per face inclusive of any logo shall be allowed per development. Where the development has access on two (2) or more streets or has more than one (1) entrance on one (1) street, identification shall be allowed at each entrance. Subdivision identification signs shall not exceed eight (8) feet above the adjacent ground surface.

(6) *Multi-family identification signs.* One (1) sign not more than thirty-two (32) square feet in size per face shall be allowed per multi-family development project except where the project fronts on two (2) or more streets. One (1) sign shall be permitted on each frontage, provided that the project has a major traffic entrance on the street where the sign is to be erected. Multi-family identification signs shall not exceed eight (8) feet above the adjacent ground surface.

(7) Signs, banners and special displays of the United States, the State of Missouri, the City of Eureka, the Rockwood School District, the Eureka Fire Protection District or churches, schools, civic or fraternal organizations located within the Eureka City limits. Signs, banners and special displays for other governmental units and churches, schools, civic or fraternal organizations located outside of the Eureka City limits must be authorized by the Board of Aldermen. Signs of such entities may be erected in City right-of-way, other City-owned property and on other, off-site premises with the permission of the property owner for the explicit purpose of giving public notice of special events under the following conditions:

a. Signs erected in City right-of-way located adjacent to residentially utilized property shall have the permission of the property owner. Such signs shall not exceed six (6) square feet in sign area nor a height of four (4) feet from the ground and should be removed within two (2) days after the special event is completed. The placement of such signs in State right-of-way is not allowed.

b. Signs erected in City right-of-way located adjacent to a commercial, industrial, planned commercial or planned industrial zoned property. Such signs shall not exceed thirty-two (32) square feet in sign area nor a height of six (6) feet from the ground and should be removed within two

(2) days after the special event is completed. The placement of such signs in State right-of-way is not allowed.

(8) Banners or signs of the United States, the State of Missouri, the City of Eureka, the Rockwood School District or the Eureka Fire Protection District affixed to utility poles, provided approvals are received from the utilities and governmental units having jurisdiction over the poles and adjacent rights-of-way respectively. Banners or signs for other governmental units may be allowed if authorized by the Board of Aldermen.

(9) Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

(10) Signs erected inside a building not visible through windows.

(11) *Information signs.* The Building Commissioner shall approve all information signs. Placement of such signage shall not create any safety or traffic hazards.

(12) *Special displays.* Such displays shall not exceed thirty-two (32) square feet and shall be used for holidays or promotion of civil welfare or charitable purposes.

(13) *Route 66 historic sign.* Such signs shall be restored, painted or refinished and maintained as such so as to not hinder the aesthetic quality of the area in which the sign is located.

(14) Banner sign erected relative to the sale, lease or rental of multiple-family dwelling property. One (1) banner not exceeding seventy-two (72) square feet in maximum sign area shall be allowed. The banner shall be attached to the wall of a building on the premises. Section 19A-15(b)(2) is not applicable to such a banner. No banner shall be allowed to be placed upon a roof.

(b) *Other Requirements.*

(1) Signs allowed by this Section may be located as necessary with the approval of the Building Commissioner, unless otherwise specified, and shall be located so as to not create a safety or traffic hazard.

(2) No sign, unless otherwise specified, shall extend more than fifteen (15) feet above the elevation of the adjacent ground surface.

Section 19A-16. "C", "M-1" and "M-2" Zoning District Signs. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 1712 §§5 — 6, 8-19-2003; Ord. No. 1714 §2, 9-2-2003; Ord. No. 1808 §1, 12-21-2004; Ord. No. 1834 §2, 6-1-2005; Ord. No. 1938 §2, 8-29-2006; Ord. No. 1977 §§1 — 2, 6-5-2007; Ord. No. 2020 §1, 12-18-2007; Ord. No. 2086 §2, 6-2-2009; Ord. No. 2120 §1, 5-18-2010; Ord. No. 2167 §2, 4-19-2011; Ord. No. 2203 §1, 2-7-2012]

(a) *Allowable Signs.*

(1) All signs permitted in Section 19A-15, except for the following as found in Section 19A-15, Subsection (a): (1)(2)(4)(5)(6).

(2) *Wall signs.*

a. One (1) wall sign per side of building, not exceeding fifteen percent (15%) of the total square footage of the building face upon which it is placed.

b. With the exception of wall signs as provided in Subsection (iii) of this Section, wall signs shall be face mounted on the building/structure projecting not more than fourteen (14) inches from the face of the building. Such signs shall not extend beyond the edge of any wall or other surface to which the sign is mounted, nor shall they project above the parapet wall, mansard or other roof line and shall be located so as to not create a safety or traffic hazard. For buildings with multiple tenants, see (c)(1) of this Section.

c. Wall signs may be situated within the alcove area of a building above the principal entrance to such. Such signs shall be face mounted on the building/structure and project no more than eighteen (18) inches from the face of the alcove area. Such signs may be located above a roof situated within an alcove area, provided that such sign is no greater in height than the highest point of the principal structure, does not extend outside of the alcove area and is located so as to not create a safety or traffic hazard.

(3) *Monument signs.*

a. One (1) monument sign per lot not exceeding ten (10) feet in height from the surrounding grade to the highest point on the sign. The maximum allowable height of a monument sign may be increased ten (10) feet when it is determined by the City that a parcel is of such irregular shape, topographic or similar condition so as to result in a hardship to the public seeking the particular commodity or service.

b. The bottom of the sign face shall not exceed a height of three (3) feet above the base of the sign.

c. In those cases where a parcel or lot has more than one (1) street frontage and/or street facing, one (1) monument sign may be placed on each street frontage and/or street facing.

d. No monument sign shall be located any closer than ten (10) feet to any property line except that no monument sign shall be located closer than twenty-five (25) feet to any residentially utilized lot. However, monument signs located in Old Town, as defined in this Chapter, are exempt from the setback requirements so long as placement of a monument sign does not create any traffic visibility or public safety concerns.

e. A maximum of twenty-five percent (25%) sign area in square feet of the lot street frontage or lot street facing upon which the sign will be

located, in linear feet, subject to a maximum area of seventy-five (75) square feet. Such signs shall not be required to be smaller than fifty (50) square feet regardless of the amount of lot street frontage and/or street facing. The maximum allowable area of a monument sign may be increased by fifty percent (50%) when it is determined by the City that a parcel is of such irregular shape, topographic or similar condition so as to result in a hardship to the public seeking the particular commodity or service.

(4) *Occupational/identification signs.* One (1) wall, non-illuminated sign or one (1) window sign not exceeding two (2) square feet in size displaying the name, occupation and/or service located upon the premises and the address.

(5) *Window signs.* Shall not cover more than fifty percent (50%) of the total window area and/or glass door to which they are applied. The percentage of signage authorized under this Subsection may cover any portion of the allowable area, and need not be calculated and displayed on an individual window pane or glass door basis. Such signs shall be securely affixed to the window and/or glass door. The total window area is to be determined per building side.

(6) *Directory signs.* For buildings with three (3) or more businesses or tenants, a directory sign may be used subject to the following provisions:

a. Buildings containing more than ten thousand (10,000) but less than fifty thousand (50,000) square feet of gross floor area may have one (1) directory sign containing a maximum of two hundred (200) square feet of sign area. Buildings containing more than fifty thousand (50,000) but less than one hundred twenty-five thousand (125,000) square feet of gross floor area may have one (1) directory sign containing a maximum of three hundred (300) square feet of sign area.

b. Directory signs shall be either a monument sign or, when applicable, a pole sign. The maximum height for a monument sign shall be twenty (20) feet from the surrounding grade to the highest point on the sign. For those lots located adjacent to Fourth Street, Fifth Street or Interstate 44, a pole sign may be erected subject to the following special provisions when followed as applicable:

(aa) The Interstate 44 pavement elevation measurement shall be at the closest point perpendicular to the subject sign location.

(bb) A pole sign shall be allowed only when the height of the sign is to exceed twenty (20) feet in height above the adjacent Interstate 44 pavement elevation, not to exceed thirty (30) feet in height above the adjacent Interstate 44 pavement elevation.

(cc) In those cases when the sign location adjacent to Interstate 44 is ten (10) feet or greater above the adjacent Interstate 44

pavement elevation, only a monument sign shall be allowed which shall not exceed twenty (20) feet in height.

c. No directory sign shall be located any closer than ten (10) feet to any property line except that no directory sign shall be located any closer than twenty-five (25) feet to any residentially utilized lot.

(7) *Directional signs.*

a. Two (2) signs per entry/exit not exceeding eight (8) square feet in outline area per facing.

b. Directional signs shall not exceed four (4) feet above the adjacent ground surface and may be located as necessary with the approval of the Building Commissioner.

c. Directional signs may contain the street address and name of the business center or the name of the use of the building, trademark, logo or similar matter, provided that not more than fifty percent (50%) of the sign area is used for this purpose.

(8) *Awning signs.*

a. The sign area shall not exceed more than sixty percent (60%) of the awning perimeter.

b. Awning signs shall be located a minimum of seven (7) feet above the surrounding grade.

(9) *Temporary signs.* (See Section 19A-18.)

(10) *Help wanted signs.* One (1) sign advertising employment opportunities located on the lot or parcel of the business advertising employment opportunities and not larger than eight (8) square feet. One (1) banner not exceeding thirty-two (32) square feet in maximum sign area shall be allowed in lieu of the requirements listed above. However, if a banner is erected for the purpose of advertising employment opportunities, no other banners, as provided for in Section 19A-18, may be erected simultaneously. No banner shall be allowed to be placed upon a roof.

(11) Signs relative to the sale, lease or rental of property erected on the offered property.

a. *Commercial and industrial zones.* One (1) sign having a maximum of seventy (70) square feet in outline area per facing. No sign shall exceed ten (10) feet in height from the surrounding grade to the highest point on the sign. In those cases where a parcel or lot has more than one (1) street frontage and/or street facing, one (1) sign may be placed on each street frontage and/or street facing.

b. Such signs may be located as necessary with the approval of the Building Commissioner.

c. Such signs shall be removed within fourteen (14) days of completion of the sale, lease or rental of property. This includes the posting of such property as sold, leased or rented.

d. In commercial and industrial zones, one (1) banner not exceeding thirty-two (32) square feet in maximum sign area shall be allowed in lieu of the requirements listed above. If a banner is erected for the purpose of advertising the sale, lease or rental of property in commercial or industrial zones, no other banners, as provided for in Section 19A-18, may be erected simultaneously. No banner shall be allowed to be placed upon a roof.

(12) *Drive-thru menu board signs.* Two (2) drive-thru menu board signs are allowed per business offering drive-thru food service, drive-thru car wash service or other drive-thru service. Neither allowable sign shall be larger than forty-four (44) square feet per sign face.

(13) *Open/closed signs and signs indicating business hours.* Such signs shall not exceed four (4) square feet and shall contain no other information than that necessary to highlight business hours and the open/closed status of a business.

(14) *Gasoline service station signs.* See Subsection (d) of this Section.

(15) *Daily advertising signs.* One (1) daily advertising sign that is displayed during hours in which a business is open and removed during hours in which a business is closed will be allowed. This type of signage is created to allow for the placement of signs that are not attached to the business but within the frontage of such a business. This type of sign should be placed in a manner that does not obstruct public right-of-way or endanger public safety. Daily advertising signs shall not exceed nine (9) square feet in sign area. The maximum height of such signage shall not exceed four (4) feet in height. Such signage may be proposed to be placed in the City right-of-way as approved by the Building Commissioner.

(16) *Construction information signs.*

a. *Development construction information signs.* A maximum of two (2) for every twenty (20) acres or fraction thereof of the development site, each sign not to exceed forty-eight (48) square feet in outline area per facing. The maximum height of such signage shall not exceed fifteen (15) feet in height above the average existing finished grade elevation of the sign or the elevation of the adjacent street, whichever is higher. Such signage shall be removed within thirty (30) days after the last lot is sold within the development. In addition, such signage may only be erected on property owned or operated by the applicant.

b. *Building construction information signs.* For developments involving the construction, reconstruction or repair of multiple buildings in any "C", "M-1" or "M-2" zoning district, each individual building will be allowed one (1) building construction information sign not to exceed twenty-four (24) square feet in outline area per facing. The maximum height of such signage shall not exceed fifteen (15) feet in height above the average existing finished grade elevation of the sign or the elevation of the adjacent street, whichever is higher. Such signage shall be removed within thirty (30) days after the issuance of an occupancy permit. In addition, such signage may only be erected on property owned or operated by the applicant.

(17) *Perpendicular wall signs.* One (1) perpendicular wall sign may be erected perpendicular to the building upon which it is placed. No perpendicular wall sign shall exceed twelve (12) square feet in sign area. The width and/or height of the sign shall not exceed four (4) feet. The innermost point of the sign shall be no more than one (1) foot from the plane of the building. The sign shall not project more than three (3) feet from the plane of the building nor be within three (3) feet of the curb line or edge of any public street or alley. Such signs shall be externally illuminated only. If a perpendicular wall sign is erected, any allowable wall signage will not be allowed on the building face upon which the perpendicular wall sign is erected.

(18) *Political signs.*

(19) *Interior logo signs.*

(b) *Special Provisions — Pole And Monument Signs Along Interstate 44 Corridor.*

(1) For those lots located adjacent to Fourth Street, Fifth Street or Interstate 44, one (1) pole or one (1) monument sign may be erected, subject to the following provisions and miscellaneous provisions when followed as applicable:

a. The Interstate 44 pavement elevation measurement shall be at the closest point perpendicular to the subject sign location.

b. A pole sign shall be allowed only when the height of the sign is to exceed ten (10) feet in height above the adjacent Interstate 44 pavement elevation, not to exceed twenty-five (25) feet in height above the adjacent Interstate 44 pavement elevation.

c. In those cases when the sign location adjacent to Interstate 44 is fifteen (15) feet or greater above the adjacent Interstate 44 pavement elevation, only a monument sign shall be allowed which shall not exceed ten (10) feet in height.

d. Any additional freestanding signs allowed on an individual lot shall be a monument sign pursuant to monument sign regulations highlighted in Section 19A-16(a)(3).

(2) *Miscellaneous provisions for allowable pole sign.*

a. A maximum of twenty-five percent (25%) sign area in square feet of the lot street frontage or lot street facing upon which the sign will be located, in linear feet, subject to a maximum area of one hundred (100) square feet. Such signs shall not be required to be smaller than seventy (70) square feet. For lots that are located adjacent to Fourth Street, Fifth Street or Interstate 44 which are also adjacent to Highway 109/W, a pole sign with a maximum sign area of one hundred-thirty (130) square feet shall be allowed regardless of lot street frontage and lot street facing.

b. No pole sign shall be located any closer than ten (10) feet to any property line except that no pole sign shall be located any closer than twenty-five (25) feet to any residentially utilized lot except for pole signs that are located on lots adjacent to Fourth Street, Fifth Street or Interstate 44 and adjacent to Highway 109/W which shall be exempt from this requirement.

c. Any pole sign in which the total height does not exceed twenty-five (25) feet shall be constructed with a rectangular or square-shaped decorative support cover that extends from the bottom of the pole sign supports to the base of the sign area.

(3) *Miscellaneous provisions for allowable monument sign.*

a. All other regulations related to monument signs shall be as stated in Section 19A-16(a)(3).

(c) *Other Requirements.*

(1) *Buildings with multiple tenants.* For buildings and property containing more than one (1) business or tenant, each business or tenant may have one (1) wall sign and one (1) awning sign conforming to the requirements of this section. For the purposes of determining the total square footage of the wall sign, only the face of each respective lease unit to which the respective sign will be attached shall be counted. A tenant may substitute one (1) perpendicular wall sign, conforming to the requirements of this section, for the one (1) allowable wall sign. Each sign must be attached to the lease unit containing the business tenant identified, unless the board of aldermen acknowledges that a topographical or other physical hardship exists that negatively impacts signage visibility, in which case as approved by the board of aldermen and building owner a tenant may operate signage authorized under this section at another location on the building in which they are a tenant.

(2) *Property with multiple tenants and multiple curb cuts.* For parcels containing more than one (1) building or tenant, a maximum of one (1) additional monument sign may be erected subject to provisions for such contained in this Chapter, provided that there is a separate curb cut for such additional building or tenant. If more than one (1) additional building or tenant is located on the

subject parcel served by a separate curb cut, they must share the sign area on such additional allowed monument sign.

(d) *Gasoline Service Station Signs.* In addition to the signage allowed in Subsection (a), (b) and (c), the following signs will be allowed for gasoline service station signs:

(1) *Gasoline service station canopy signs.*

a. A gasoline service station with a canopy shall be permitted one (1) canopy sign for each side of the canopy not to exceed a total of four (4) canopy signs.

b. This canopy sign shall not exceed twenty (20) square feet in sign area.

c. The canopy sign shall be a flat sign permanently affixed to the vertical face of the canopy and shall not project above or below, or from any side of the vertical face of the canopy.

d. The canopy sign may be illuminated by internal and non-intermittent light sources.

e. A business logo, inclusive of striping or other symbols, may appear on this canopy sign as part of the sign area allowable for said sign.

(2) *Pump signs.*

a. Signs shall be allowed on gasoline pumps so as to provide the required information to the public regarding "octane rating", "price", "type of fuel", "Federal and State stamps", "pump use directions" and "no smoking".

b. The trade name and any associated symbols shall be permitted on the sides of the pumps as flat signs located no more than three (3) feet above the ground and not to exceed two (2) square feet in sign area per pump.

c. "Self-service", "full-service" or other informational signs may identify each pump island on the gasoline service station property. The location of such signs shall be limited to the gasoline pump or the canopy support, not more than twelve (12) feet above the ground, located at each end of the pump island or between the canopy supports as a spandrel panel.

d. A maximum of two (2) such signs shall be allowed per pump island and each sign shall not exceed two (2) square feet in sign area when placed on the gasoline pump or twelve (12) square feet when located at each end of the pump island or between the canopy supports as a spandrel panel.

e. Temporary signs placed above each pump shall be allowed. Such signs shall not exceed four (4) square feet in sign area.

(3) *Gasoline service station price signs.* To allow for the incorporation of gasoline service station price signs, monument signs (or, when applicable, pole signs) used for gasoline service stations are granted an additional twenty (20) square feet of sign area pursuant to the requirements made in Subsection (a)(3) or, when applicable, (b)(1). Gasoline service station price signs may be allowed as a separate sign when mounted on the same pole of any allowable pole sign.

(4) *Gasoline service station car wash signs.* In those situations where a gasoline service station has an unattached structure providing car wash services, the following signs will be allowed for the structure providing car wash services.

a. Wall signs pursuant to the requirements as stated in Subsection (a)(2). Only wording identifying car wash services shall be allowed.

b. Two (2) drive-thru menu board signs pursuant to the requirements as stated in Subsection (a)(12).

(e) *Signage For Co-Branded Restaurants And Gasoline Service Stations.* The signage requirements for co-branded restaurants and gasoline service stations shall be the same as set forth in this Chapter except for the following:

(1) The sign area for an allowable pole sign shall be allowed a maximum of twenty-five percent (25%) sign area in square feet of the lot street frontage or lot street facing upon which the sign will be located, in linear feet, subject to a maximum area of two hundred (200) square feet. Such signs shall not be required to be smaller than one hundred forty (140) square feet.

(2) Co-branded restaurants and gasoline service stations shall be allowed two (2) separate signs. However, both such signs must be mounted on a single pole. When such signs are to be placed side by side upon a pole sign, each use advertised shall have the same amount of sign area allocated to the total sign area.

(3) In those instances in which a pole sign is not allowed, one (1) monument sign shall be allowed with a maximum of twenty-five percent (25%) sign area in square feet of the lot street frontage or lot street facing upon which the sign will be located, in linear feet, subject to a maximum area of one hundred (100) square feet. Such signs shall not be required to be smaller than seventy-five (75) square feet. Any other allowable monument signs, as set forth in Section 19A-16, will be allowed this increase in sign area for co-branded restaurants and gasoline service stations.

(f) *Off-Site Signage Allowed Under Certain Conditions.* In instances where two (2) non-retail entities have any degree of contiguity and share a driveway and/or parking area, such property owners may co-locate business identification or directional signage on each entity's allowable sign area, as approved by the Board of Aldermen. No increase in the number of or dimensions of signage shall be allowed to accommodate such.

(g) *Electronic Message Centers.* Electronic message centers are only permitted as part of an allowable freestanding sign and shall not be permitted to be installed on any portion of the building. Only one (1) electronic message center is permitted per lot. No electronic message center shall exceed twenty-five percent (25%) of allowable sign area, up to a maximum of forty (40) square feet.

(1) Electronic message centers shall also be subject to the following requirements:

a. The electronic message center must be installed in the bottom one-half (½) of the overall sign.

b. The sign containing the electronic message center must be set back a minimum distance of two hundred (200) feet from any residentially utilized property.

c. Messages shall be limited to single color alphanumeric display and shall have a minimum duration of fifteen (15) seconds. Transitions between messages shall be instantaneous. Scrolling messages or otherwise animated effects are not permitted.

d. The maximum brightness of electronic signs shall not exceed five thousand (5,000) nits (candelas per square meter) during daylight hours or five hundred (500) nits (candelas per square meter) between dusk to dawn.

e. The sign must have an automatic dimmer control which produces a distinct illumination change from a higher allowed illumination level to a lower allowed illumination level for the time period between one-half (½) hour before sunset to one-half (½) hour after sunrise.

f. All approved electronic message centers shall be made available for usage for Amber Alerts and other community emergency notifications as deemed necessary by the City Emergency Management Director.

g. Electronic signs shall contain a default design that will freeze the design in one (1) position if a malfunction occurs.

h. Audio speakers are prohibited.

(2) The owner of an electronic message center shall arrange for an annual certification of the lumens showing compliance by an independent contractor and provide said certification to the City of Eureka.

(3) The owner of an electronic message center shall submit to the City of Eureka upon application a letter acknowledging sign owner's agreement to comply with the dimming and emergency use provisions of this Code.

Section 19A-17. Shopping Center Development Signage. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 1889 §2, 2-7-2006; Ord. No. 2196 §1, 10-26-2011]

Provisions applicable to shopping centers containing one hundred twenty-five thousand (125,000) square feet or greater of floor space in all "C" zoning districts except as otherwise provided for in this Chapter:

(a) *Monument And Pole Signage.*

(1) *Number*. Two (2) monument or pole signs, or any combination thereof, shall be allowed. Directory signage shall be an integral part of the monument signage or pole signage and shall identify the name of the shopping center and at least one (1) of the entities operating therein.

(2) *Size and height.* A maximum sign area of five hundred seventy-five (575) square feet shall be allowed. No monument or pole sign shall exceed a height of forty-five (45) feet from its surrounding grade.

(b) *Wall Signage.* Each building or tenant space, whichever is smaller, may have a maximum wall sign width no greater than seventy-five percent (75%) of the front building or tenant space frontage. Height of a wall sign is not to exceed forty-eight (48) inches above the highest portion of the roof. Such signs may not be greater than twenty percent (20%) of the building area facing a roadway. Secondary identification, slogan or other relevant signage may be utilized in conjunction with the principal signage of the major building or tenant of the shopping center, whichever is smaller, as long as the total allowable signage area, dimensions and percentages are not exceeded.

(c) *Outlots.* Although an outlot is often accessed through the same principal ingress/egress as the shopping center and is considered by some to be a part of the shopping center, technically they are separate lots independent of the shopping center parcel and are entitled to their own signage, subject to normal commercial signage provisions (not those of the one hundred twenty-five thousand (125,000) square foot or larger shopping center category, even if the outlot is of such a shopping center).

Section 19A-18. Temporary Signs. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 1706 §3, 8-5-2003; Ord. No. 1959 §§1 — 2, 2-20-2007; Ord. No. 2133 §§1 — 2, 8-3-2010; Ord. No. 2167 §1, 4-19-2011]

(a) The following temporary signs are allowable subject to specified requirements:

(1) One (1) portable sign not exceeding twenty-four (24) square feet in maximum sign area. The use of such a device for special promotions shall be limited to two (2) events for each business in a calendar year with a maximum time period of fourteen (14) days for each event. These events may be consecutive. A permit and fee of twenty-five dollars ($25.00) will be required.

(2) One (1) cold air inflatable device not exceeding twenty (20) feet in height nor fourteen (14) feet in width. In cases where a temporary sign is affixed to said device, the sign area shall not exceed forty-eight (48) square feet. Cold air inflated devices shall be securely affixed to the ground or the rooftop of a permanent building. Placement of such signage shall not create any safety or

traffic hazards. The use of cold air inflated devices for special promotions shall be limited to two (2) events for each business in a calendar year with a maximum time period of fourteen (14) days for each event. These events may be consecutive. A permit and fee of twenty-five dollars ($25.00) will be required.

(3) One (1) banner a maximum of twenty-five percent (25%) sign area in square feet of the lot street frontage or lot street facing upon which the sign will be located, in linear feet, subject to a maximum area of one hundred (100) square feet. Such banners shall not be required to be smaller than thirty-two (32) square feet. No banner shall be allowed to be placed upon a roof. Furthermore, any one (1) business shall be limited to a maximum of six (6) permits for banners in any calendar year. An individual business is permitted to display a banner for a maximum total of one hundred twenty (120) days within a calendar year. Within the limits of the maximum number of permits per year, any combination of permits and whole days per permit is allowed. There shall be no fee imposed for erecting banners.

(4) One (1) ground-mounted flag that is displayed during hours in which a business is open and removed during hours in which a business is closed. This type of signage is created to allow for the placement of signs that are not attached to the business but within the frontage of such a business. This type of sign should be placed in a manner that does not obstruct public right-of-way or endanger public safety. Ground-mounted flags shall not exceed twenty-four (24) square feet in sign area. The maximum height of such signage shall not exceed eight (8) feet in height. Flag material must be in new or like-new condition and absent of holes, fading or tears. There shall be no permit or fee imposed.

(b) *Supplemental Regulations.*

(1) In those cases in which a new business is performing a grand opening, a new business is allowed a thirty (30) day period to advertise such an opening in addition to the time requirements established by this Section for allowable temporary signs. Such signage should meet all other requirements of this Section and should include wording similar to "Grand Opening" or "Now Open".

(2) In those cases in which a banner is erected for advertising employment opportunities or the sale, lease or rental of property, then no other banners, as allowed by Subsection (a)(3), may be erected simultaneously.

(3) When a business is relocating from one location within the Eureka City limits to another location within the Eureka City limits, for a period of time not exceeding sixty (60) days, one (1) portable sign with dimensions not exceeding those set forth in Section 19A-18(a)(1) or one (1) banner with dimensions not exceeding those set forth in Section 19A-18(a)(3) may be operated on the property formerly occupied by the subject business. The content of such signage is restricted to information pertaining to the relocation

of the business within the City. Any signage authorized by this Section shall not impact the ability of the new occupant of the property to erect any signage to which they may otherwise be entitled under this Chapter.

(4) *Buildings with multiple tenants.* For buildings and property containing more than one (1) business or tenant, each business or tenant may have one (1) temporary banner not exceeding fifteen percent (15%) of the total square footage of the building face upon which it is placed, subject to a maximum area of thirty-two (32) square feet. Each banner must be attached to the lease unit containing the business tenant identified and must be mounted at least seven (7) feet above the adjacent sidewalk.

Section 19A-18A. Off-Site Residential Subdivision Directional Sign. [Ord. No. 2080 §2, 3-3-2009]

(a) The primary purpose of an "off-site residential subdivision directional sign" is to ease traffic congestion and facilitate the flow of traffic by providing assistance to the public in locating and navigating to a residential subdivision under development within the City, or in close proximity, and such signage is permitted pursuant to the following provisions.

(b) Off-site residential subdivision directional signs may be permitted only if they comply with the following criteria and restrictions:

(1) Each sign shall require a permit which shall be valid for one hundred eighty (180) days. Each permit application shall be accompanied by a map depicting the proposed location and by a ten dollar ($10.00) permit fee. No permit shall be issued until the fee is received by the City. Upon issuance, the permit shall be attached to the sign prior to erection. Any sign erected without a permit shall be subject to immediate removal and prosecution in the Municipal Court.

(2) Signs shall be freestanding and shall not exceed four (4) square feet in area nor be higher than four (4) feet in height.

(3) Signs may only contain the following information: the name of the residential subdivision, the name of the builder or developer, a logo or insignia and a directional arrow.

(4) Signs shall not be placed or displayed before 4:30 P.M. on Fridays and shall be completely removed, including the support structures, no later than 6:00 A.M. on the following Monday unless the Monday is a Federal holiday in which case the sign must be removed no later than 6:00 P.M. on that Monday.

(5) Signs shall not be placed on private property without the permission of the property owner.

(6) Signs shall not be attached to any utility structure, tree, fence or any public or existing private sign.

(7) Signs may not be placed within City maintained right-of-way or other right-of-way owned or maintained by any County or the State of Missouri without proper authority.

(8) No sign shall be erected within two hundred (200) feet of any other off-site residential subdivision directional sign for the same development.

(9) No more than eight (8) signs shall be allowed for each residential subdivision under development.

(10) Any residential development for which a sign permit may be issued hereunder must be located within the City of Eureka or within one (1) mile of its corporate limits.

(11) The applicant for any sign permit hereunder shall remove any sign for which the permit has expired within twenty-four (24) hours of its expiration.

Section 19A-19. Flags. [Ord. No. 1681 §1, 3-4-2003]

(a) *Flags In "R-1", "R-2", "R-3", "R-4", "R-5", "LLRD" And "FP" Zoning Districts.*

(1) These regulations pertain to residential uses only. All other uses located in "R-1", "R-2", "R-3", "R-4", "R-5", "LLRD" and "FP" zoning districts shall be subject to the regulations outlined in Section 19A-19(b).

(2) *General regulations.* No more than three (3) flags may be displayed per lot. All United States flags should be displayed in a manner consistent with the United States Flag Code. Any flagpole shall be able to withstand winds of ninety (90) miles per hour. The location of any flag(s) and any flagpole must be approved by the Building Commissioner to ensure that it does not encroach on lot lines, endanger the safety, or obstruct visibility of surrounding property owners.

(3) *Ground set flagpoles.* No more than one (1) ground set flagpole per lot. Ground set flagpole height shall not exceed twenty-five (25) feet. The vertical dimension of a flag displayed from a ground set flagpole shall be no greater than one-fourth (¼) the height of the flagpole.

(4) *Wall-mounted flagpoles.* The vertical dimension of a flag displayed from a wall-mounted flagpole shall be no greater than one-half (½) the height of the flagpole.

(5) *Roof-mounted flagpoles.* No roof-mounted flagpoles shall be permitted.

(b) *Flags In "C", "M-1" And "M-2" Zoning Districts.*

(1) *General regulations.* Only one (1) non-official flag may be displayed per lot. All United States flags should be displayed in a manner consistent with the United States Flag Code. All flagpole(s) shall be able to withstand winds of ninety (90) miles per hour. The location of flag(s) and flagpole(s) must be approved by the Building Commissioner to ensure that it does not encroach on

lot lines, endanger the safety, or obstruct visibility of surrounding property owners.

(2) *Ground set flagpoles.* No more than three (3) ground set flagpoles per lot. The vertical and horizontal dimensions of an official flag displayed from a ground set flagpole shall be of a size that allows the official flag to be flown at half-staff without touching the ground. The vertical dimension of a non-official flag displayed from a ground set flagpole shall be no greater than one-fourth (¼) the height of the flagpole. Ground set flagpole height shall be determined by the following:

a. Ground set flagpoles displaying any non-official flag shall not exceed forty (40) feet in height.

b. Ground set flagpoles displaying any official flag shall not exceed eighty (80) feet in height.

(3) *Wall-mounted flagpoles.* The vertical dimension of a flag displayed from a wall- mounted flagpole shall be no greater than one-half (½) the height of the flagpole.

(4) *Roof-mounted flagpoles.* The vertical dimension of a flag displayed from a roof-mounted flagpole shall be no greater than one-half (½) the height of the flagpole. No roof-mounted flagpole should be of a height greater than eighty (80) feet from the surrounding grade. No non-official flag shall be displayed on a roof-mounted flagpole.

(c) *Flag Standards Generally.*

(1) *United States flag at half-staff.* The United States flag, when flown at half-staff, shall be first hoisted to the peak for an instant and then lowered to the half-staff position. The United States flag shall be raised to the peak before it is lowered for the day. "Half-staff" is meant lowering the United States flag to one-half (½) the distance between the top and bottom of the flagpole.

Section 19A-20. "PC" and "PI" Zoning District Signs. [Ord. No. 1681 §1, 3-4-2003]

Sign regulations for Planned Commercial or Planned Industrial Districts shall not be less restrictive than those regulations contained in this Chapter, except that Planned Commercial or Planned Industrial District proposals containing multiple lots, multiple buildings and/or multiple tenants shall be considered on a site specific basis when such proposals include construction of new buildings. When this criteria is met by a proposal, a sign design plan will be submitted containing detailed requirements for the lettering, illumination, colors, materials, location and sign type to be used within the development. The sign design plan shall be incorporated into the ordinance governing the specific Planned Commercial or Planned Industrial District after approval of all such "PC" and "PI" signage is granted by the Board of Aldermen. Approval of the sign design plan shall be determined by the following criteria:

(a) Is compatible with the surrounding area;

(b) Is appropriate for the activity identified;

(c) Is legible in the circumstances in which it is to be seen;

(d) Shall not detract from the appearance of the surrounding area and the community as a whole; and

(e) Shall not constitute a safety hazard to pedestrians or vehicular traffic.

Section 19A-21. Billboards. [Ord. No. 1681 §1, 3-4-2003; Ord. No. 2086 §3, 6-2-2009]

(a) *Billboard Signs.* The following standards, provisions, requirements and restrictions shall apply to all billboard signs within the City:

(1) The City shall not accept a billboard sign application for consideration and issuance unless a valid State of Missouri permit, scaled site plan and plans accompany it sealed by an engineer licensed and registered in the State of Missouri. Such plans shall include structural drawings, foundation specifications, wind load calculations, electrical requirements, and a survey depicting the distance between the proposed billboard sign and existing billboard signage installed as of the date of the subject application.

(2) *Zoning districts.* Billboard signage may only be applied for and permitted in "C" Commercial, "M-1" Light Industrial and "M-2" Heavy Industrial zoning districts.

(3) *Size.* Not to exceed four hundred (400) square feet per sign face.

(4) *Maximum height.* Thirty-five (35) feet at its highest point above the elevation of the adjacent street or of the elevation at the base of the sign, whichever is higher (more permissive).

(5) *Minimum height.* Twenty (20) feet at the lowest point of the sign face at its lowest point above the elevation of the adjacent street or of the elevation at the base of the sign, whichever is lower.

(6) *Dimensions.* Sign face including border and trim shall be no greater than eight (8) feet in height and shall be no greater than fifty (50) feet in width.

(7) *Type.* Only single-sided and back-to-back or "V" type construction billboards with a single display per facing are allowed.

(8) No billboard sign may be placed any closer than one thousand five hundred (1,500) feet to another billboard sign on the same side of an interstate highway or freeway on the Federal-aid primary system.

(9) No billboard sign may be placed any closer than one thousand five hundred (1,500) feet to another billboard sign, regardless of orientation, on a non-freeway Federal-aid primary system highway.

(10) No billboard sign may be placed within five hundred (500) feet of an interchange, intersection at grade or the convergence of on-ramps and off-

ramps and an interstate highway or freeway on the Federal-aid primary system, all measured at a point closest to any portion of the above and the closest portion of the subject billboard sign.

(11) Minimum setback as measured from all points of the billboard sign shall be five hundred (500) feet from all residentially zoned property or property being utilized in a residential manner, as well as any public property, public or private parks or a registered historical site or historical district.

(12) Minimum setback as measured from all points of the billboard sign shall be one hundred (100) feet from any structure.

(13) Minimum setback as measured from all points of the billboard sign shall be one hundred (100) feet from any public right-of-way, public or private road, public or private driveway, public or private parking lots, or railroad tracks or sidings.

(14) Billboard sign illumination shall be installed only so as to reasonably illuminate the subject billboard sign face and shall be directed and back shielded to transmit light only to same to a degree that it does not create a light pollution visual nuisance. No perimeter, strobing or other attracting type of lighting may be operated in conjunction with a billboard sign. No tri-vision, projection, digital or other changeable copy technology will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date and temperature or similar information.

(15) Billboard signs shall not be placed or operated so as to create a safety, traffic, health or hazardous condition.

(16) Any application received for billboard signs intended to replace existing billboard signage shall be regulated by these provisions and any other applicable regulations normally applied to new billboard sign applications.

(17) No regulations in this Section or any portions thereof are intended or to be construed as being less restrictive than State or Federal regulations.

(b) *Legally Non-Conforming Billboards*. The following standards, provisions, requirements and restrictions shall apply to all legally non-conforming billboards within the City:

(1) *Notification of non-conformity*. After the enactment of this Chapter, the Building Commissioner shall as soon as practicable survey the City for billboards that do not conform to the requirements of this Chapter. Upon determination that a billboard is non-conforming, the Building Commissioner shall use reasonable efforts so as to notify either personally or in writing the user or owner of the property on which the billboard is located of the following:

a. The billboard's non-conformity; and

b. Whether the billboard is eligible for characterization either as legal non-conforming or unlawful.

c. If the billboard owner, user or owner of the property cannot be located, the notice may be affixed in a conspicuous place to the billboard or to the business premises with which the billboard is associated.

(2) Any billboard located within the City limits on the date of adoption of this Chapter (Ordinance Number 1494, November 21, 2000), or located in an areas annexed to the City thereafter, which does not conform with the provisions of this Chapter, is eligible for characterization as a legal non-conforming sign, if the sign was in compliance with applicable law on the date of adoption of this Chapter.

(3) *Loss of legal non-conforming status.* A legal non-conforming billboard shall immediately lose it legal non-conforming status if:

a. The billboard is altered in any way in structure which tends to or makes the billboard less in compliance with the requirement of this Chapter than it was before the alteration.

b. The billboard structure is moved or relocated for any reason any distance whatsoever.

c. If any billboard sign lacks a commercial advertisement or public service message for a period exceeding ninety (90) days, regardless of intent to resume use of same, it shall be considered a discontinuance of use and must be removed within thirty (30) days of receiving written notice from the City. Advertisement of space available for the respective billboard shall not constitute compliance with this Subsection.

d. Should any non-conforming billboard be destroyed by any means to an extent of up to sixty percent (60%) of its surface area or structure, it shall not be reconstructed, except in conformance with the requirements of this Code.

e. On the occurrence of any one (1) of Section 19A-20(3)(i) through (iv) above, the sign shall be immediately brought into compliance with this Code with a new permit secured therefore or shall be removed pursuant to Section 19A-6.

(4) Ordinary maintenance or repair of an existing billboard to a safe condition shall not be cause to classify the sign as a new sign.

(c) *Billboard Sign Extensions.*

(1) The total square footage of billboard sign extensions may not exceed twenty-five percent (25%) of the billboard sign face area for which such extensions are sought.

(2) Such extensions shall not protrude more than three (3) feet from the billboard sign face.

(3) As billboard sign extensions vary in their presence, absence and placement based on specific advertising copy, such extensions shall not be considered when calculating billboard sign face area or height requirements.

(4) The sign contractor shall provide evidence to the City that the extensions are structurally sound and do not create or intensify any potentially hazardous or injurious conditions.

(5) Billboard sign extensions shall be operated only as a component of specific advertising copy, which use shall expire with the removal of said specific advertising copy, and are not intended to become a permanent portion of the billboard structure or sign face area.

(6) These provisions shall equally apply to conforming and legally non-conforming billboard signage.

Section 19A-22. Dynamic Display Signage. [Ord. No. 2299[2] §1, 5-6-2014]

(a) For purposes of this Section, the following terms shall have the meanings indicated:

DYNAMIC DISPLAY SIGNAGE — A light emitting diode or other form of self-illuminated signage which may be multicolor, contain scrolling messages and other content and have animated effects.

(b) The Board of Aldermen may give consideration to dynamic display signage only on parcels located in Planned Commercial Zoning Districts which conform to the following criteria:

(1) The subject parcel must be a minimum of two (2) acres in size.

(2) The subject parcel must contain a principal structure a minimum of twelve thousand (12,000) square feet in size, and the subject sign must be located within fifty (50) feet of such principal structure.

(3) The subject parcel must have a minimum of three hundred (300) linear feet of Interstate 44 or Interstate 44 outer road frontage.

(4) The sign face may be a maximum of one hundred twenty-five (125) square feet.

(5) The sign shall not exceed a height of thirty-five (35) feet above the elevation of Interstate 44 at a point perpendicular to the proposed location of the sign.

(6) The portion of the sign face displaying dynamic content shall not be greater than eight (8) feet in height or fourteen (14) feet in width.

(7) The sign shall be allowed to promote community events as approved by the owner.

Section 19A-23. Severability. [Ord. No. 1681 §1, 3-4-2003]

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[2]. **Editor's Note: Section 1 of this ordinance also renumbered former Section 19A-22 as Section 19A-23.**

The phrases, clauses, sentences, paragraphs and Subsections of Chapter 19A are severable and if any phrase, clause, sentence, paragraph or Subsection of Chapter 19A shall be declared unconstitutional or otherwise unlawful by the valid judgment, decree or injunction order of a court of competent jurisdiction, such ruling shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Subsections of Chapter 19A.

Chapter 20

STREETS AND SIDEWALKS

ARTICLE I
In General

§ 20-1. Placing Debris on Streets Prohibited.

No person shall place or throw, or cause to be placed or thrown, any asphalt, macadam, concrete, gravel, clay, dirt, wood, earth, nails, glass, barbed wire, tacks, refuse, rocks or any other substance or material whatsoever upon any public street, alley, sidewalk, square or other public place, or after having dropped or spilled any such material accidentally upon any such place, shall knowingly allow the same to remain upon such place.

§ 20-1.1. Adopt-A-Roadway Program. [Ord. No. 1093 §§1-3, 4-5-1994; Ord. No. 1667 §1, 12-17-2002]

(a) The City Administrator is hereby directed to draft and implement a City of Eureka Adopt-A-Roadway agreement including program guidelines, safety precautions and operational requirements and any other instruments necessary for the operation of this program, which may be supplemented and amended by staff from time to time as required.

(b) All proposed Eureka Adopt-A-Roadway participants must present to the Board of Aldermen their business, organization, family or individual name as it will appear on signage, the proposed roadway and the portion thereof proposed for maintenance, the minimum term of commitment and the frequency with which the subject roadway will be maintained. If approved, the Board of Aldermen will pass a resolution approving the participation in the program by the business, organization, family or individual and erect appropriate designation and recognition signage.

(c) All approved City of Eureka Adopt-A-Roadway participants must enter into an agreement to acknowledge observance of established program guidelines, safety precautions and operational requirements, which may be amended from time to time, or program participation authority will be rescinded.

ARTICLE II
Excavations

§ 20-2. Permit. [Ord. No. 123, §1; Ord. No. 197, §1]

No person shall make or cause to be made any excavation in any public place, street, highway, walkway, alley, right-of-way or easement, without first obtaining a permit from

the city street commissioner or plumbing inspector. Such permit will only be granted when in the opinion of the officers the excavation requested is necessary, and each separate and distinct excavation shall require a separate permit.

Application for excavation permits shall be made in writing and before the permit is issued, the applicant shall furnish proof of adequate insurance and protection to the city against all claims for damages arising from the prosecution of the work; deposit with the city, a sum adequate to repay the city for its cost of backfilling and repaving, as set out below and shall pay to the city, to be turned into the city treasury, a fee of one dollar to cover the cost of the permit and a fee of six dollars to cover the cost of the inspection of the proposed excavation by the city.

§ 20-3. Regulations Generally. [Ord. No. 123, §2; Ord. No. 197, §2]

In the making of excavations in any street, highway or public place, the excavated materials from the trenches shall be placed where they will cause the least possible inconvenience to the public. The width of excavation shall be no greater than is necessary for doing the work and sheathing and bracing shall be used as necessary, to keep the sides of the trench vertical and to prevent caving. Adequate provision for proper drainage of the areas surrounding the work shall be maintained at all times.

Excavations made in or under street, walk or driveway pavements are to be backfilled with granular material thoroughly tamped into place as hereinafter specified and the pavement surface restored to its original condition. In such locations excavated materials are to be removed from the site of the work as the excavation is made and no such material allowed to accumulate on the site.

Substitution may be made for granular backfill only with specific approval of the city street commissioner or plumbing inspector in each instance.

Approved granular backfill material shall be composed of a mixture of crushed stone or gravel and sand, free from clay lumps and trash and conforming to the following sieve analysis:

Passing 1" screen	100%
Passing ¼" screen	35 to 65%
Passing #50 screen	Not more than 20%
Total clay and silt	Not more than 10%

Other materials may be used only when they have approval.

Granular backfill is to be placed in horizontal layers not greater than six inches thick before compaction and shall be thoroughly compacted by mechanically operated tamping. During placement and compaction care must be taken to avoid undue segregation of coarse and fine particles.

Excavations in parkways, outside of the paved area of streets or walks may be backfilled with earth and all grassed areas returned to their original condition. Earth backfill is to be placed and compacted in the same manner as described for granular fills

or thoroughly jetted to obtain maximum settlement and shall be maintained by the person making the excavation until the area has been stabilized in the original condition. As soon as the excavation has been backfilled, all excess excavated materials shall be removed from the area and disposed of.

The actual work of placing and compacting granular backfill and repaving excavated area in paved streets and walks is to be performed by the person making the excavation.

§ 20-4. Deposits. [Ord. No. 197, §3]

(a) No person shall receive any permit to excavate in or under any public place, street, highway, walkway, alley, right-of-way, easement or any other public thoroughfare until he shall have first deposited with the city collector a sum of money calculated as follows:

For placing backfill.

Improved surfaces	$3.00 per square foot with a $25.00 minimum
Unimproved surfaces	$2.00 per square foot with a $15.00 minimum

For restoring surface.

Concrete	$1.25 per square foot
Asphaltic concrete	$1.00 per square foot
Bituminous macadam	$0.75 per square foot
Macadam	$0.50 per square foot
Unimproved surfaces	$0.00 per square foot

If the length of an excavation exceeds the width of the street on which such excavations are made, the person requesting permission to make the excavation shall, before receiving a permit, deposit with the city collector five hundred dollars for each such excavation.

The total deposit shall be an amount equal to the sum of the amount calculated for placing backfill plus the amount calculated for restoring the surface in accordance with the above schedule. A separate deposit shall be required for each separate and distinct excavation.

(b) The deposit so made shall be held by the city to assure the satisfactory placing of the backfill and restoration of the surface in accordance with the provisions of this article. If the person making such excavation shall delay or refuse, after due notice from the street commissioner, to place the backfill in an excavation or restore the surface of the public place, street, highway, walkway, alley, right-of-way, easement or any other public thoroughfare in which the excavation was made as required under this article, it shall be the duty of the street commissioner to place the backfill

or restore the surface, or both, and the expense of the placing or restoring or both shall be defrayed out of the deposit made as required by this article. The balance of the deposit, if any, after all lawful charges against it have been made, shall be returned to the person who made the deposit.

(c) Any person having occasion to make frequent excavations in or under the public places, streets, highways, walkways, alleys, right-of-ways, easements or any other public thoroughfare in the city, may in lieu of the deposits required in the preceding paragraphs, deposit with the city collector one hundred dollars to assure the proper placing of backfill and restoration of the surface of excavations made by him or it where such excavations shall not exceed the width of the public place, street, highway, walkway, alley, right-of-way, easement or other public thoroughfare in which such excavations are made. The deposit shall be subject to all the conditions of the preceding paragraphs.

§ 20-5. Obstruction of Traffic to be Minimized; Detour; Restoration of Street Surface. [Ord. No. 123, §3]

All excavations shall be made in such manner as not to inconvenience or interfere with the public use or travel upon the streets, avenues, alleys, sidewalks or other public places when possible. When such use is unavoidably obstructed, the person making such excavation shall exercise all reasonable dispatch in prosecuting the work so that the public use will not be obstructed beyond a reasonable time. In cases where excavations are made entirely across a public highway, and adequate detour for traffic is not available, a substantial driveway shall be maintained across such excavation until such excavation is refilled. Detours may not be established except on special permit from the city street commissioner and then only after notice to the fire department and police department. All sidewalks, crosswalks, curbs, gutters, streets, avenues, alleys or public places disturbed, interfered with or injured in making any excavation, shall be restored, replaced and repaired to as good condition as they were before such excavation was made.

§ 20-6. Barricades, Warning Devices, Etc.; Indemnification of City. [Ord. No. 123, §4]

Every person who shall cause to be made any excavation in or adjoining any public street, alley, highway or public place, shall provide, erect and maintain at all times along the line of work all such barricades, signs, lights and warning signals as may be necessary to protect the public from the hazards arising from the operation and shall indemnify and save harmless the city, its officers and employees from any suits, actions or claims of any character brought because of any injuries or damages received or sustained by any person or property on account of the work or on account of or in consequence of any neglect in safeguarding the work.

§ 20-7. Bond Required. [Ord. No. 197, §6]

No excavation permit shall be issued to any person unless the person is bonded with the county department of plumbing inspection or has furnished a bond approved by the Mayor of the City.

ARTICLE III
New Road Construction

§ 20-8. Generally. [Ord. No. 618, §1.; Ord. No. 1671 §1, 2-4-2003; Ord. No. 1748 §1, 3-16-2004]

(a) All new road construction shall be designed in accordance with specifications promulgated by the St. Louis County Department of Highways and Traffic, with the exception of islands within cul-de-sacs which shall be prohibited. The plans shall be submitted for review and approval to the City Engineer through the office of the City Administrator.

(1) The maximum vertical grade of a new bridge constructed within the City may not be greater than 7.99 percent. All other bridge criteria shall be in accordance with the St. Louis County Department of Highways and Traffic specifications.

(b) Fees for reviewing the road construction plans are included in the subdivision review fees. Where a road is to be constructed absent a subdivision, then the actual cost of the plan review shall be the review fee, as determined by the City Administrator.

(c) Prior to commencing new road construction a permit shall be obtained. The permit fee shall be ten dollars ($10.00), plus a seventeen dollar ($17.00) per hour inspection fee. The City Administrator shall estimate the number of inspection hours, which will be adjusted to actual hours at the end of construction. All fees must be paid prior to consideration of acceptance for maintenance by the City. These fees shall be adjusted on an annual basis, effective January first (1st) of the year in question, to reflect increases, if any, in the November offering next preceding this January first (1st) of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United State Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty-cent ($.50) figure, and shall not be further adjusted during the course of the year in question until the following January first (1st) of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

ARTICLE IV
Sidewalks, Driveway Entrances

§ 20-9. Sidewalks; Obstructions Prohibited; Cleaning. [Ord. No. 890, §1.; Ord. No. 1755 §1, 4-20-2004; Ord. No. 2190 §1, 9-20-2011]

(a) *Sidewalk Obstructions Prohibited.* No item may be placed upon or project over or onto a public sidewalk that, in the opinion of the Building Commissioner, would impede the normal flow of pedestrian traffic.

(b) *Cleaning Sidewalks.* The tenant or occupant of premises occupied by him and the owner or agent of vacant lots or the person in their control shall keep the sidewalks

in front of and adjoining the property owned, controlled or occupied by him, or affixed within a public right-of-way adjacent to the property, swept and clear of paper, dirt, mud, filth and animal or vegetable matter or any substance or article. After any fall of snow or sleet or the formation of ice thereon, the owner, agent, occupant or tenant shall cause the same to be immediately removed from the sidewalk. Where a building is occupied by more than one (1) tenant, it shall be the duty of the person occupying the tenement nearest the street to comply with the requirements of this Section.

§ 20-10. Sidewalks; Driveway Entrances. [Ord. No. 840, §1]

(a) *Repair*. It shall be the duty of every owner of real estate to keep his sidewalks, and driveway entrances adjacent to his property in good repair at all times and free from irregularities and offsets in the surface thereof which may render the same unsafe for use.

(b) *Sidewalk with engrade.* The required width of the sidewalk shall be established by the Director of Public Works, but in no event shall the width of sidewalks be less than three (3) feet. Sidewalks shall conform to the established grade; provided, however, that the Director of Public Works may require sidewalks built to some other grade if in the best interest of the public.

(c) *Supervision of work.* All work of constructing, reconstructing or repair of sidewalks and driveway entrances shall be done under the supervision of the Director of Public Works.

§ 20-11. Failure to Repair Hazardous Sidewalks; Appeal. [Ord. No. 840, §1]

(a) Whenever the Director of Public Works or his authorized representatives shall be informed that any sidewalk lawfully used by the public in the City in a hazardous condition likely to cause bodily injury to persons using the same, he may cause reasonable protective measures to be taken to guard the public and shall notify the owner, through reasonable means, of such situation and at such time command the owner to repair or replace such sidewalk within thirty (30) days from the receipt of such notification or, if the City has a receipt of such notification or, if the city has a responsibility of correcting any condition contributing to the hazard, then within thirty (30) days from the completion of such correction.

(b) Notice of the aforesaid required work shall be given by directing a written order by certified mail to the last known address of said owner, or, if no address is available for such owner, by posting a copy of said order on the subject premises. Any owner who fails, neglects or refuses to comply with such an order within thirty (30) days of the receipt or posting thereof or correction of any condition contributing to the hazard to the City, shall be deemed guilty of a misdemeanor.

(c) Any owner of such a sidewalk may within thirty (30) days after receipt of the Director of Public Works' notice or completion of the corrected action by the City, appeal to the Board of Aldermen, the Director of Public Works' determination of the hazardous condition of the sidewalk, or seek an extension of time for

accomplishing the repairs of said sidewalks, which may be granted by said Board if the sidewalk can be immediately and temporarily rendered safe for the public and the owner so alleviates the condition; provided, however, while an appeal remains undetermined, the owner shall not be prosecuted. When a sidewalk condition is alleviated to the satisfaction of the Board of Aldermen and within the time granted by said Board, the owner shall not be prosecuted.

(d) If the owner shall fail to repair or replace a hazardous sidewalk or portion thereof within thirty (30) days after notification by the Director of Public Works unless such time is extended as provided in Subsection (c) herein, or shall fail to appeal as herein provided, or shall fail to repair or replace said sidewalk or portion thereof as may be ordered by the Board of Aldermen, the Board shall authorize and instruct the Director of Public works to cause said construction, reconstruction or repair to be done under his direction and to his satisfaction, and an accurate account kept of the cost of all labor, including supervision, and material entering into said work.

§ 20-12. Defective Sidewalks and Repair. [Ord. No. 840, §1]

The Board of Aldermen may, by ordinance or resolution, condemn defective sidewalks and make assessments therefor, but the Board of Aldermen, without notice to property owner, may order the Director of Public Works to cause such work to be done, and the Director of Public Works shall keep an account of the cost thereof and report the same to the Board of Aldermen for assessment.

§ 20-13. New Construction. [Ord. No. 840 §1]

(a) *Contract.* Where a sidewalk has been condemned and is to be replaced by a new walk, or where a petition of any ten (10) or more residents of the city is received for the construction of a new sidewalk where no sidewalk has previously existed, the Board of Aldermen in its discretion shall contract for the construction of such sidewalk, including grading therefor, with or without curbing, along the street involved. Such contract shall be let to the lowest and best bidder, upon plans and specifications filed therefor by the Director of Public Works with the City Clerk/Collector, not less than one (1) week's advertisement for bids thereon being made in some newspaper published in the county. Before advertising for bids, an estimate on the cost of the work shall be made by the Director of Public Works and submitted to the Board of Aldermen, and no contract shall be made for the work at a price exceeding such estimate.

(b) *Work by City.* When after advertisement no bid is received for the construction of sidewalks, the Board of Aldermen may order the Director of Public Works to cause the work to be done. In such case, the Director of Public Works shall keep an accurate account of the amount expended for labor and materials, including grading and filling, opposite each lot and present such account to the Board of Aldermen for assessment as provided in this Article.

§ 20-14. Assessments. [Ord. No. 840, §1]

When the Director of Public Works or other proper officer has reported to the Board of Aldermen the cost of construction, reconstruction or repair of any sidewalk, the Board of Aldermen in its discretion may levy the cost as a special assessment against each lot abutting the sidewalk, and each such lot shall be liable for its part of the cost of the work done or made along or in front of such lot. The City Clerk/Collector shall issue separate tax bills therefor against each such lot. The cost of said construction, reconstruction or repair may be paid in whole or in part by special assessments against adjacent real property.

§ 20-15. Address Numbers Required. [Ord. No. 934, §1]

(a) *Commercial Buildings.* All commercial buildings located within the City Limits shall have affixed thereto an address, which address shall contain numbers of a minimum height of four inches (4"); and the numbers shall be placed a minimum of three (3) feet from the ground at such location on the commercial buildings or property so as to be clearly visible from the street or from a thoroughfare located on the subject property. Where commercial buildings are located within a row of such buildings (e.g., within a shopping center or mall) and such building has a rear door, then the rear door shall have said address numbers affixed thereto also.

(b) *Residential Property.* All residential property located within the City Limits shall have affixed thereto address numbers of a minimum height of four inches (4"), and the numbers shall be placed on the residence or on the ground surrounding the residence so as to be clearly visible from the street passing in front of the residence.

(c) *Penalty for Violation of Section.* Any person convicted of a violation of the provisions of this Section shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars ($10.00) and not more than five hundred dollars ($500.00) for each day that such violation continues.

§ 20-16. Sale of Merchandise on Sidewalks. [Ord. No. 2093 §1, 8-18-2009]

A properly licensed business may display and sell merchandise on public and private sidewalks in the City subject to the following conditions:

(a) A sidewalk sale permit must be obtained from the city.

(b) Property owner permission must be obtained in the case of private sidewalks.

(c) A business may conduct such activity for a period not to exceed three (3) consecutive days, no more than four (4) times per year.

(d) The sidewalk sale can be operated only in front of the business conducting the activity.

(e) An unobstructed area a minimum of thirty-six (36) inches in width shall be maintained to allow unimpeded pedestrian access through the area.

(f) No litter or debris may be generated from the sidewalk sale operation.

(g) All merchandise and displays must be removed at the end of each business day.

ARTICLE V

Driveways [1]

§ 20-17. Driveways and Driveway Extensions. [Ord. No. 1742 §1, 1-20-2004; Ord. No. 2093 §1, 8-18-2009]

With the exception of a single driveway limited to a width and length necessary to serve only the capacity of the principal garage or carport operated in connection with a single residence, no driveways or driveway extensions may be constructed or utilized unless such are authorized by the Board of Aldermen subject to the following:

(a) *Application.* An application shall be made to the Board of Aldermen which must include:

(1) Applicant's name and signature;

(2) Subject address;

(3) Plot plan depicting the locations of existing driveways and any proposed driveways or driveway extensions, as well as the locations of any existing and proposed structures.

(b) *Application Review*. The Board of Aldermen shall give consideration to the application based on the following criteria:

(1) That the driveway or driveway extension shall not create a traffic or safety hazard to the subject or adjacent properties; and

(2) That the driveway or driveway extension shall not substantially impact storm water conditions; and

(3) That the driveway or driveway extension shall not negatively affect the character or general welfare of the neighborhood.

(c) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of any proposal and the date of the meeting at which the proposal will be considered.

(d) Lots located within the Large Lot Residential Zoning District are not subject to the above requirements provided that the proposed driveway or driveway extension is a minimum of twenty (20) feet from all property lines.

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1. **Editor's Note — Ord. no. 1742 §1, adopted January 20, 2004, repealed art. V "Allenton street improvements escrow accounts" and enacted the new provisions set out herein. Former art. V derived from ord. no. 931 §§1 — 4.**

Chapter 20A

SUBDIVISION, MOBILE HOME TRAILER COACH PARK AND PUBLIC CAMPGROUND REGULATIONS

ARTICLE I
Subdivision Regulations

Section 20A-1. "Subdivision of Land" Defined. [Ord. No. 50, Art. 14, §1; Ord. no. 520, §1; Ord. No. 645, §2; Ord. No. 649, §2]

(a) The division of land into two or more tracts, sites or parcels of less than three acres in area;

(b) Dedication or establishment of a street through a tract of land;

(c) Resubdivision of land heretofore divided or platted into lots, sites or parcels;

(d) Any sale described by metes and bounds as defined in the preceding portion of this section shall constitute a subdivision of land and require, prior to any sale, the submission of a plat to the planning and zoning commission as required by law; provided, however, that this shall not apply to the sale or exchange of small parcels of land to or between adjoining property owners, where such sale or exchange does not create additional lots, upon certification by the planning and zoning commission;

(e) Large lot single-family subdivision, being a division or redivision of a tract or tracts of land wherein all lots are three acres or more in area and each boundary side is greater than two hundred fifty feet in length.

Section 20A-2. Plat — Required; Approval and Recordation. [Ord. No. 50, Art. 14, §2; Ord. No. 520, §2; Ord. No. 645, §2; Ord. No. 2270 §1, 9-3-2013; Ord. No. 2311 §1, 8-19-2014]

Every boundary adjustment or subdivision of land within the incorporated area of the City shall be shown upon the plat and submitted to the Planning and Zoning Commission for approval or disapproval. No plat shall be recorded in the office of the Recorder of Deeds unless and until submitted to the Planning and Zoning Commission and approved by the City. The City shall be provided a copy of the recorded plat within sixty (60) days of such being recorded with the St. Louis County Recorder of Deeds. No lots shall be sold from the subject plat and no building permits shall be issued within said plat until such time as a recorded copy of the approved plat is received by the City.

Section 20A-3. Same — Review Fees. [Ord. No. 617 §1; Ord. No. 645 §2; Ord. No. 1373 §1, 9-1-1998]

(a) *Filing fee.* A filing fee of one hundred dollars shall accompany the submission of a proposed preliminary plat. There shall be a fifty dollar filing fee for a minor subdivision plat, comprising the creation of four lots or less.

(b) *Subdivision permit fees.*

(1) There shall be a twenty dollar per lot subdivision permit fee accompanying the submission of a proposed record plat.

(2) There shall be a ten dollar ($10.00) per dwelling unit subdivision permit fee accompanying the submission of a proposed record plat for a multiple dwelling unit subdivision or for a condominium subdivision.

(3) There shall be a subdivision permit fee accompanying the submission of a proposed record plat for a non-residential subdivision. Such fee shall be calculated as follows:

(3) A twenty dollar ($20.00) per acre fee for the first (1st) twenty (20) acres; and an additional fifty dollars ($50.00) per acre for each acre over twenty (20) up to one hundred (100) acres; and a ten dollar ($10.00) per acre fee for each acre over one hundred (100) and up to two hundred (200) acres. There shall be no additional fee for applications for tracts in excess of two hundred (200) acres.

(4) The subdivision review fees provided for herein are established to defray the cost of review of each individual application, which includes: Legal reviews, ordinance preparation, engineering reviews, publication, hearings, surveys, studies and any and all other expenses directly relating to a specific application that is deemed necessary by the City for review purposes. In the event that such fees are insufficient to cover such total costs for a specific application the applicant shall deposit with the City such additional sums necessary to cover the entire cost of such review, which shall be the actual fees assessed to the subdivision.

(5) Where paragraph (4) of this Subsection is not invoked, fees shall not be refundable or adjusted.

(c) In the event that the City receives an application, petition or other request for any administrative or legislative consideration, and the applicant, petitioner or requestor owes the City any amounts from previous City consideration including any third (3rd) party expenses the City has incurred, the City reserves the right to refuse to give any consideration to such application, petition or request until such time that the City has received payment in full or payment terms acceptable to the City.

Section 20A-4. Same — Submission. [Ord. No. 50, Art. 14 §3; Ord. No. 520 §3; Ord. No. 645 §2]

(a) In accordance with laws of the State, plats of proposed subdivisions within the incorporated limits of the City shall be submitted first to the Planning and Zoning Commission of the City for review, recommendation and approval or disapproval, before being submitted for consideration to the Board of Aldermen of the City.

(b) The Planning and Zoning Commission shall consider plats within a period of sixty (60) days, unless otherwise mutually agreed by the applicant and Planning and Zoning Commission.

(c) In the event the Planning and Zoning Commission shall disapprove the plat, the reasons therefor shall be a matter of public record.

(d) The Board of Aldermen shall consider the plats and action of the Planning and Zoning Commission and upon approval shall pass an ordinance setting out the approval of the plat therein.

(e) In the event the Board of Aldermen shall disapprove the plat, the reasons therefor shall be a matter of public record.

(f) No plat shall be recorded in the office of the Recorder of Deeds of the County unless the approval of the City shall be indicated on the plat.

Section 20A-5. Applicability of County Subdivision Regulations. [Ord. No. 50, Art. 14 §4; Ord. No. 520 §34; Ord. No. 645 §2]

The minimum requirements for subdivision design, preliminary plats and final plats of subdivision shall be the same as provided for in the County Subdivision Ordinance and subject to final review and approval by the Planning and Zoning Commission and Board of Aldermen of the City.

Section 20A-6. Improvements. [Ord. No. 50, Art 14 §5; Ord. No. 520 §5; Ord. No. 541 §1; Ord. No. 565 §1; Ord. No. 645 §2; Ord. No. 649 §§1, 3; Ord. No. 889 §1; Ord. No. 890 §1; Ord. No. 892 §1; Ord. No. 893 §1; Ord. No. 894 §1; Ord. No. 1244 §1, 8-6-1996; Ord. No. 1267 §1, 12-3-1996; Ord. No. 1291 §1, 6-17-1997; Ord. No. 1294 §9, 6-17-1997; Ord. No. 1299 §1, 8-5-1997; Ord. No. 1367 §1, 8-4-1998; Ord. No. 1412 §1, 8-3-1999; Ord. No. 1470 §1, 8-1-2000; Ord. No. 1570 §1, 11-20-2001; Ord. No. 1633 §5, 9-17-2002; Ord. No. 1635 §§1 — 2, 9-17-2002; Ord. No. 1647 §1, 10-1-2002; Ord. No. 1671 §2, 2-4-2003; Ord. No. 1672 §§1 — 6, 2-4-2003; Ord. No. 1683 §1, 4-15-2003; Ord. No. 1864 §1, 10-18-2005; Ord. No. 1917 §3, 6-6-2006]

(a) *Installation And Escrow Requirements.*

(1) Plans for improvements required in this Section shall be prepared by a registered engineer. All improvements required in this Section shall be installed prior to the approval of the final plat, which is prepared for recording purposes. In lieu of actual completion of such improvements, the subdivider may file with the Board of Aldermen an escrow agreement as approved by the City accompanied by evidence that funds have been deposited into a properly designated escrow account in a financial institution acceptable to the City to secure to the City the actual construction of such improvements in a manner satisfactory to the City and within a period specified by the City, but such period shall not exceed two (2) years, absent any other specific authority from the Board of Aldermen and/or as may be further restricted. Such escrow account funds shall be in the amount and with conditions satisfactory to the City and shall be accompanied by a recommendation from the City Engineer

that the amount of the escrow account is adequate to cover the cost of the improvements. The escrow account is subject to special audit by the City.

(1) All public improvements shall be reviewed and approved by the City Engineer prior to commencement of any construction. The owner of the tract may prepare and secure tentative approval of a final subdivision plat of the entire area and may install the above improvements only in a portion of such area, but the improvements must be installed in any portion of the area for which a final plan is approved for recording, and the owner may sell or lease or offer for sale or lease lots only in the improved portion of such property; provided however, that trunk sewers and sewage treatment plants shall be designed and built to serve the entire areas or designed and built in such a manner that they can easily be expanded or extended, as the case may be, to serve the entire area.

(1) Plans for all public improvements shall be provided to the City as soon as practicable after completion of construction and shall be in the form as required by the City Engineer.

(2) In instances where an approved irrevocable letter of credit is used, six (6) months prior to the expiration date of such irrevocable letter of credit, the City shall place the developer on written notice of such impending expiration. No later than two (2) months prior to the expiration of the irrevocable letter of credit, the developer shall take all necessary action to renew same for a period of time approved by the City. If the developer does not provide to the City written evidence of irrevocable letter of credit renewal within thirty (30) days of its expiration date, the City shall exercise its rights to draw upon the irrevocable letter of credit for all amounts it deems necessary to ensure completion and/or repair of all items covered by the escrow agreement. In the event that the irrevocable letter of credit expires, the City shall issue a stop work order which shall remain in effect until a replacement irrevocable letter of credit is provided to the City.

(3) The provisions contained in this Chapter and the City approved escrow agreement shall supersede any conditions or restrictions contained in other escrow related documents including irrevocable letters of credit.

(4) The sale of lots to other builders or developers does not relieve the initial developer or builder of responsibilities for proper and complete installation and/or repair of grading, infrastructure, or other improvement related responsibilities. In the case of a sale or transfer of full or partial development rights to another developer or builder, replacement or additional escrows must be established, or the original developer or builder must be contractually authorized to enter upon such sold or transferred lots as required to complete any installations or correct any deficiencies. No building permits shall be issued until replacement escrows subject to the terms of this Section have been provided to the City.

(b) *Permanent Monuments.* All subdivision boundary corners and four (4) corners at all street intersections shall be definitely marked with permanent monuments. A permanent monument shall be deemed to be any permanent monument listed in the "Missouri Minimum Standards for Property Boundary Surveys" (10CSR 30-2 and 4CSR 30-16, effective date December 30, 1994, as amended). Should conditions prohibit the placing of monuments on line, off-set monumentation will be permitted, provided that the exact off-set courses and distances are shown on the record plat of the subdivision. All monuments shall be placed by a registered land surveyor.

(c) *Street Improvements.* All streets shall be graded to a minimum width of twenty-six (26) feet and the roadway improved by surfacing. Roadway surfacing shall be in accordance with St. Louis County standard specifications. All grading and surfacing shall be done under supervision of a registered engineer or such other qualified person as the Board of Aldermen may designate and shall be subject to approval. The treatment of the intersection of any new street with a State highway shall be approved by the State Highway Commission and such other qualified person as the Board of Aldermen may designate to supervise construction and maintenance of City streets.

(c) Dead-end streets or cul-de-sacs, designed to be so permanently, shall be provided at the closed end with a turnaround having an outside roadway measurement of at least ninety (90) feet and a street property line diameter of at least forty (40) feet, said street property line diameter not to include any area not suitable for vehicular travel. The construction of islands within cul-de-sacs is prohibited. If a dead-end street is of a temporary nature, a similar turnaround shall be provided and provision made for future extension of the street into adjoining properties.

(d) *Street Lights.* Adequate street lighting shall be required and designed in accord with the County Subdivision Ordinance. (See also Section 20A-9)

(e) *Street Signs And Street Names.*

(1) Street name signs shall be installed by the subdivider for all public streets within the subdivision and existing streets that intersect the subdivision. Street signs shall be of the type currently in general use by the City, unless otherwise agreed by the City and subdivider.

(2) Proposed streets which are continuations of, or in general alignment with, existing named streets shall bear the names of such existing streets. The name of a proposed street which is not in alignment with an existing street shall not duplicate the name of any existing or platted street. All the names of streets proposed by the subdivider shall be approved by the St. Louis Post Office and the Planning and Zoning Commission prior to submitting the proposed record plat for review.

(f) *Sidewalks.* Sidewalks shall be required in every subdivision and shall be designed and constructed in accordance with St. Louis County sidewalk specifications.

(g) *Water Lines.*

(1) Where an approved public water supply is reasonably accessible or procurable, the subdivider shall connect with such water supply and make it available for each lot within the subdivided area.

(2) Pending availability of a public water supply, the subdivider shall construct drilled wells or a private water supply system in such a manner that an adequate supply of potable water will be available to every lot within the subdivision. The installation furnished and the approval of the same shall comply with the requirements of the State Department of Natural Resources.

(3) Water systems shall be designed to provide adequate fire protection.

(4) Water systems shall be constructed in accord with standards and specifications of the City, which are on file with the City Clerk and are incorporated herein by reference. Water system construction shall be inspected by the City Engineer, City Plumbing Inspector or other qualified person designated by the Board of Aldermen.

(h) *Sanitary Sewers.*

(1) Where a public sanitary sewer is reasonably accessible, the subdivider shall connect with such sanitary sewers and provide adequate sewer lines accessible to each lot. Sewer connections and subdivision sewer systems shall comply with the regulations of the State Department of Natural Resources.

(2) Where a public sanitary sewer is not reasonably accessible, but where plans for installation have been prepared and approved by the State Department of Natural Resources, the subdivider shall install sewers in conformity with such plans, although a connection to an existing main may not be immediately practicable. In such cases, and until such connection is made with the sewer system of the district, the use of a sewage treatment plant may be allowed; provided, such disposal facilities are constructed in accordance with the regulations and requirements of the State Department of Natural Resources.

(3) All sanitary sewer lines and appurtenances shall be constructed in accord with standards and specifications of the Metropolitan St. Louis Sewer District (MSD) and regulations and requirements of the State Department of Natural Resources.

(4) Construction of sanitary sewer lines and appurtenances shall be inspected by the City Engineer, City Plumbing Inspector or other qualified person designated by the Board of Aldermen.

(i) *Storm Sewers.* Adequate provisions shall be made for the disposal of stormwater subject to the approval of the City Planning and Zoning Commission, upon review and recommendation of the City Engineer. All storm sewer lines and appurtenances shall be designed by a registered professional engineer and approved by the City Engineer. Construction of all storm sewer lines and appurtenances shall be inspected by the City Engineer, City Plumbing Inspector or other qualified individual designated by the Board of Aldermen.

(j) *Trees And Landscaping.* The subdivider shall plant trees and other landscape materials as required by the City along streets, in front yards, in common ground areas, in street islands and parkways, in open space areas and in lot and subdivision buffers. The subdivider shall submit a landscape plan to the City for study, recommendation and approval to ensure that it is serving its intended purpose, is of a variety and specification that will increase the likelihood of its continued survival, and to help prevent the planting of certain species that would become nuisances because of insects or disease or because of their roots unduly interfering with sewer mains or other underground utilities.

(k) *Open Spaces.*

(1) *Open spaces provided.*

a. All subdividers or developers of single-family and multiple-family residential property shall provide for reasonable and adequate amounts of open space, parks and recreational facilities within their developments. This requirement shall be deemed satisfied by the use of any one (1) or a combination of the following alternatives:

1. Dedication of open space land for public use;

2. Fees in lieu of dedication; or

3. Development of parks and recreational facilities within the subdivision or development.

The method(s) selected shall be reviewed by the Park Board, the Planning and Zoning Commission and the Board of Aldermen of the City prior to acceptance of the final subdivision plat or site plan; but in any event final acceptance or rejection shall be by resolution of the Board of Aldermen.

b. This provision applies to development of all single-family and multiple-family residential lands in the City, including all subdivisions, lots, tracts and parcels of land.

c. Neighborhood facilities, open space parks and recreational facilities that are developed consistent with the requirements of this Article shall be within or near the development area, so that the intention of these requirements, specifically, to serve the needs created by such development, is accomplished.

d. No building permits shall be issued until provisions of this Article are satisfied.

(2) *Dedication of open space lands.*

a. *Schedule.* If the dedication of open space land is selected as the compliance of a particular developer with the requirements of this Article, dedication shall be by deed or plat and shall be as provided in the following schedule of dedications:

Schedule of Dedication (Minimum Requirement)

Zoning	**Amount of Dedication**
1-A	3%
R-1	6%
R-2	8%
R-3	10%
R-4 and other single-family residential	12%
PRD	12%
R5-A	15%
R5-B	15%
R5-C	15%

The above required open space shall be in addition to minimum required yard areas and spaces reserved for off-street parking in applicable zoning ordinances. The percentage figures of dedicated spaces shall be computed on gross area of the development or subdivision.

b. *Suitability.* All lands to be dedicated shall meet the following general requirements (specific requirements may vary).

1. *Size and shape.* Shall normally contain not less than two (2) contiguous acres;

2. *Location and accessibility.* Shall be located in or adjacent to subdivision or area to be served and easily accessible to same. Consideration should be given to placing park areas where they can be added to by future subdivisions, or the addition of open space required by this provision to an existing park;

3. *Topography — drainage.* Fifty percent (50%) of the land dedicated shall have a grade of less than ten percent (10%); it is permissible for the remainder of the dedicated property to be covered with steep slopes, streams, ditches, lakes or other natural features;

4. The land dedicated or to be dedicated should be conveyed in its natural state. Removal of trees, topsoil and other natural features shall be prohibited unless there is previously acquired the written approval from the City Administrator;

5. The Park Board shall review the suitability of the land to be dedicated and provide a written recommendation to the Board of Aldermen;

6. The Board of Aldermen shall have the final determination as to the suitability of dedicated lands under these provisions;

7. Open space dedication requirements shall not be applicable to single-family subdivisions of land in which fewer than two (2) additional lots are created.

(3) *Credit for private parks and recreational facilities.* Any subdivision plat or multi-family site plan containing suitable facilities to be reserved, constructed and maintained by a private organization to serve the needs of the subdivision or development being created may satisfy the requirements of this Article, provided:

a. They fulfill the area and suitability requirements of this Article, and

b. Are reviewed by the Park Board, Planning and Zoning Commission and the Board of Aldermen and approved by the Board of Aldermen.

(4) *Fee in lieu of land dedication.*

a. When a subdivision or development is prohibited from dedication of land, or when otherwise approved or required by the Board of Aldermen, a fee in lieu of dedication shall be paid. The amount of such fee in lieu of dedication shall be determined by computing the percent of dedication of land from the schedule contained in Subparagraph (2)(a) above, multiplied by the actual verified cost of the raw land without improvements; provided, the land has been acquired within the last twelve (12) months. Where land has not been acquired within the last twelve (12) months, a current fair market value for the completed equivalent amount of land shall be determined by negotiation with City or via independent professional appraisals to be prepared at the developer's cost.

b. *Time of payment of fee.* The fee in lieu of dedication shall be paid at the time of final plat or site plan presentation unless express written approval from the City is given as to the terms of any other arrangement.

c. *Special fund created for fee.* All fee in lieu of dedication payments shall be maintained in a special park account established by the City, and such funds may be used only for the purchase and development of park and recreational facilities.

(5) *Resubdividing.* Any lands resubdivided after passage of this Article shall be subject to the provisions of this Chapter; except, any lands previously dedicated for fees in lieu of dedication previously paid will be credited against the requirements mandated by this provision. In no instance, however, will land so previously dedicated or fees previously received by the City be returned or refunded to developers or subdividers.

(6) *Watercourses.* Where a subdivision is transversed by a watercourse, drainageway, channel or stream, there shall be provided utility easements and drainage rights-of-way of sufficient width to permit maintenance if future

expansion can reasonably be anticipated, and these easements shall conform substantially with the lines of such watercourses or drainage rights-of-way.

(7) *Natural features.* Natural features such as trees, brooks, hilltops and views, shall be preserved wherever possible. For purposes of this and any other applicable Sections, a brook shall include a creek, stream or other definable water tributary. The subdivider shall designate or show at the time of filing of his/her final plat what trees and other natural features are to be retained. Artificial and natural lakes and wooded areas are to be preserved and encouraged as much as possible. If the subdivider wishes to modify any natural brook features, planning and zoning consideration shall be required for same, and two-thirds (2/3) affirmative vote of the members of the whole Planning and Zoning Commission shall be required to be considered a favorable recommendation. Such modification(s) shall be authorized only upon receiving three-fourths (¾) affirmative vote of the members of the whole Board of Aldermen regardless of whether or not a favorable Planning and Zoning Commission recommendation is received.

(l) *Stormwater Detention.* Stormwater detention shall be required consistent with the City's stormwater detention design criteria and guidelines which are on file as public records and available for inspection and review in the offices of the City.

(m) *Erosion Control.* All land areas disturbed during construction or development shall be protected from the effects of storm runoff erosion within thirty (30) days of the completion of the grading. Adequate measures to reduce soil erosion shall be approved by the Planning and Zoning Commission and Board of Aldermen, after review and recommendation by the U.S. Soil Conservation District or the City Engineer. Soil loss reduction measures shall be designed by the applicant's engineer in accordance with the Eureka Grading and Sediment Control Regulations, which are hereby adopted by reference and available in the office of the Building Commissioner.

(n) *Large Lot Single-Family Subdivision Improvements.* Large lot single-family subdivisions shall be required to construct or provide improvements contained in this Section, except as follows:

(1) A variance from the requirement of all streets to be graded to a minimum width of twenty-six (26) feet as contained in Section 20A-6(b) of this Chapter may be amended to allow all streets in large lot single-family subdivisions to be graded to a minimum width of twenty (20) feet, upon application to and recommendation by the Planning and Zoning Commission with the approval of the Board of Aldermen. A public hearing shall not be required in granting this variance from the requirements of this Article. All other provisions of Section 20A-6(b) shall apply herein as previously enacted.

(2) Street lights shall be required only at street intersections and entrances to the subdivision.

(3) Sidewalks shall be required and shall be designed and constructed in accordance with St. Louis County sidewalk specifications, except, the Board of Aldermen may, upon written request by the subdivider, forgive, vary or modify this requirement when the topography or contour of the land, after final grade, creates a hazardous condition or undue hardship.

(4) Connection to a public water system shall not be required where (a) it is not readily accessible, or (b) it can be demonstrated that it is not economically feasible. Individual water wells may be constructed when approved by appropriate health agencies and plumbing inspections.

(5) Connection to a sanitary sewer system shall not be required. Individual package type sewage treatment plants (aeration systems) may be used when of an approved type and the installation approved by plumbing inspections.

(6) Storm sewers shall not be required to be installed, except at the crossing of roads by natural watercourses, where storm sewers shall be appropriately sized and installed.

(7) There shall not be an open space dedication requirement.

(o) Each developer or builder of a residential lot within the City not intended for occupancy by the builder of same shall establish with the City a one thousand dollar ($1,000.00) per lot escrow for a final grading and yard establishment escrow. Upon passing a City inspection, the developer or builder of the subject lot may request a ninety percent (90%) release of said escrow. The remaining ten percent (10%) will be held for incidental items if or as needed and shall be released in conjunction with other escrow amounts and categories, subject to a final inspection.

(p) *Subdivision Buffers.* Subdivision buffer shall be defined as an area surrounding the perimeter of a residential subdivision which contains grass and may also contain landscape material.

(1) *Subdivision buffer requirements.*

a. Residential subdivisions of three (3) acres or more situated in every zoning district classification with the exception of Large Lot Residential may be required to provide a subdivision buffer as approved by the Board of Aldermen. [Ord. No. 2284 §1, 1-7-2014]

b. The basis for determining if a subdivision buffer is required and the specific standards of same shall be based on the character of the property on which the subdivision is proposed, and the zoning, as well as the existing and potential development of the adjacent property.

c. In instances where a subdivision buffer is required, it shall be subject to the following provisions:

1. The subdivision buffer may be required to surround up to the entire perimeter of the subdivision.

2. The subdivision buffer may not be less than ten (10) feet, but shall not be required to be greater than fifty (50) feet in width.

3. Landscape material may be required to be installed within the subdivision buffer, the standards for which shall be specific to each proposed subdivision or portion thereof.

4. A landscape easement shall be recorded for all subdivision buffer areas to prohibit development within the buffer area and prohibit the removal or destruction of any required landscape material.

5. Subdivision buffers shall be maintained with the exception of areas allowed to remain or return to a natural state.

(q) *Back-to-Back Lot Separation.*

(1) Except as exempted herein, residential subdivisions of five (5) acres or more shall not contain lots which back to one another with less than a twenty-five (25) foot common ground separation.

(2) Landscape material may be required to be installed within such back-to-back lot separation area, the standards for which shall be specific to each proposed subdivision or portion thereof.

(3) A landscape easement shall be recorded for all such back-to-back lot separation areas to prohibit development within such area and prohibit the removal or destruction of any required landscape material.

(4) The Board of Aldermen may approve certain exceptions and/or adjustments to this provision based on practical difficulties, including topography, as well as other criteria so as to not deny reasonable development of the subject property.

(r) *Creation Of Walk-Out Lots.* A subdivider may not alter the natural topography of an area by means of excessive grading and/or tree removal so as to create a lot suitable for the construction of a structure with a means of lower level ingress and egress (commonly known as a walk-out lot), when absent such excessive grading such a structure could not otherwise be constructed.

Section 20A-7. Variations and Exceptions. [Ord. No. 50, Art. 14, §6; Ord. No. 520, §6; Ord. No. 645, §2; Ord. No. 1926 §1, 6-20-2006]

Whenever the tract to be developed is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these regulations would result in real difficulties and substantial hardships or injustices, the Board of Aldermen may vary or modify such requirements so that the subdivider may be allowed to develop his property in a reasonable manner, but so that, at the same time, the public welfare and the interests of the City are protected and the general intent and spirit of this article are preserved.

Where lots are irregular in shape with frontage on a circular street or court at the termination of a street, the frontage of the lot may be reduced below the minimum frontage specified under the intensity of use provisions for the zoning district in which it is located; provided however, that the width of the lot at the building line shall be in accordance with the minimum frontage specified for the zoning district.

Section 20A-8. Administration and Amendment. [Ord. No. 50, Art. 14, §7; Ord. No. 520, §7; Ord. No. 645, §2]

The planning and zoning commission may, from time to time, adopt, amend and publish rules and instructions for the administration of these subdivision regulations to the end that the public be informed and that approval of plats be expedited.

Section 20A-9. Street Lighting. [Ord. No. 1257 §1, 10-15-1996]

(a) The subdivider shall install and operate all street lighting within all plats until such time that the City accepts the financial responsibility for same. At a minimum, the subdivider shall install and operate street lights at all required street and intersection locations from the point of the nearest intersection of a street containing a dwelling unit to the point of the dwelling unit located furthest from the subject intersection.

(b) Before the City shall accept financial responsibility for street lighting, all street lighting required by the City shall be installed and operating. Unless the subdivider successfully demonstrates to the City that extraordinary mitigating circumstances exist, the City will not give consideration to accepting financial responsibility for street lights within a particular plat until a minimum of seventy-five percent (75%) of the homes located therein are occupied with at least conditional occupancy permits. Further, the City will not give consideration toward acceptance of financial responsibility for any plats containing display home illumination or other promotional lighting until such lighting is metered separately and remains the responsibility of the subdivider.

ARTICLE II
Mobile Home Trailer Coach Park Regulations

Section 20A-10. Definitions. [Ord. No. 191, §4; Ord. No. 326, §3; Ord. No. 645, §3]

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

DEPENDENT TRAILER COACH — A trailer coach which does not have a toilet and bath or shower.

INDEPENDENT TRAILER COACH — A trailer coach that has a toilet and bath or shower.

MOBILE HOME TRAILER COACH — Any trailer, as defined in chapter 23; any trailer which is used within the city for the purpose of a dwelling house. The term mobile home trailer coach shall not include camping trailers.

PARK — Mobile home trailer coach park providing space for two or more trailer coaches.

PERMITTEE — Any person permitted to operate and maintain a mobile home trailer coach park under the provisions of this article.

TRAILER COACH SPACE — A plot of ground within the mobile home trailer coach park designated for the accommodation of one mobile home trailer coach.

Section 20A-11. Use of Mobile Home Trailer Coaches Generally. [Ord. No. 191, §4; Ord. No. 645, §3: Ord. No. 661, §1]

No trailer coach shall be used for any purpose by any person within the city, except any such coach which is parked in an approved mobile home trailer coach park or by a special use permit. No mobile home trailer coach shall be parked on any public alley or upon any public property of any kind for a period exceeding twenty-four hours.

Section 20A-12. Permit — Required; Term; Fees. [Ord. No. 191, §4; Ord. No. 272, §1; Ord. No. 326, §4; Ord. No. 397, §1; Ord. No. 645, §3]

It shall be unlawful for any person to maintain or operate within the city any trailer coach park unless such person shall first obtain a special use permit therefor. The permit shall expire on December 31 of each year and there shall be an annual permit charge of not less than twenty-five dollars or such other amount in excess of twenty-five dollars as may be designated by the board of aldermen for each mobile home trailer coach park. In addition to the annual permit charge, on the first day of each month after the permit is issued, the permittee shall make a written report to the city clerk listing the occupants of each space therein during the preceding month.

Section 20A-13. Same — Application; Issuance. [Ord. No. 191, §4; Ord. No. 326, §5; Ord. No. 645, §3]

Applications for a permit to construct and operate a mobile home trailer coach park shall be issued initially by the board of aldermen of the city. Application shall be made in writing, signed by the person who will own, maintain or operate the proposed park, and shall contain the following information:

(a) The name and address of the person who will own, maintain and operate the proposed park.

(b) The location and legal description of the trailer coach park.

(c) A complete plot plan of the park showing compliance with all of the provisions of this article.

(d) Plans and specifications of all buildings and other improvements to be constructed within the park.

(e) Such other and further information as may be requested by the board of aldermen to enable it to determine if the proposed park will comply with all requirements.

The application and all accompanying plans and specifications shall be filed in triplicate. The board of aldermen shall investigate the applicant and inspect the proposed plans and specifications.

Upon a finding of good moral character of the applicant, and compliance with all ordinances and statutes, and after satisfying itself that the park is reasonable and proper in its proposed location, the board of aldermen shall approve the application and upon completion of the park according to the plans submitted, they shall issue the permit hereunder.

Section 20A-14. Same — Posting. [Ord. No. 191, §4; Ord. No. 326, §6; Ord. No. 645, §3]

The permit shall be conspicuously posted in the office of or on the premises of the trailer coach park at all times.

Section 20A-15. Same — Revocation. [Ord. No. 191, §4; Ord. No. 326, §7; Ord. No. 645, §3; Ord. No. 675, §1]

(a) *Provisional order.* When the city administrator has reported the violation of this article or of any law or ordinance of the city, the city clerk shall issue to the affected person a provisional order to comply.

(1) *Nature of notice.* The provisional order, and all other notices issued in compliance with this article, shall be in writing, shall be served as provided and shall apprise the person affected of his specific violations. A copy of such notice shall be affixed to some structure on the premises. Depositing such notice in the United States mail shall constitute service thereof.

(2) *Period for compliance.* The provisional order shall require compliance within fifteen days of service on the affected person.

(3) *Hearing.* Upon written application by the person affected before the expiration of a ten day period for compliance, the city administrator shall order a hearing within thirty days. Notice of such a hearing shall be given the affected person by depositing such notice in the United States mail.

(b) *Modifying authority of city administrator.* Upon written application, or on his own motion, the city administrator shall have the authority, in a proper case, to extend the time for compliance, to grant a new hearing date and to change, modify or rescind any recommendation or order.

(c) *Final order.* Upon the failure or refusal of the person affected to comply with the provisional order or with any order made after hearing, the city administrator shall then declare and make the provisional order final.

(1) *Authority of city administrator.* The city administrator shall have the authority to suspend or revoke licenses upon making and declaring a provisional order final.

(2) *Effect of revocation or suspension.* Upon revocation or suspension, no refund of any portion of the license fee shall be made to the licensee, and he shall immediately cease all business at all places under such license.

(d) *Summary action.* When the conduct of any licensee, agent or employee is so inimicable to the public health, safety and general welfare as to constitute a nuisance and thus give rise to any emergency, the city administrator shall have the authority to summarily order the cessation of business and closing of premises or to suspend or revoke the license.

(1) *Special hearing.* Unless waived in writing, within ten days after he has acted summarily, the city administrator shall conduct a special hearing in a summary manner for such action in respect to the summary order as may be therein determined. Notice of such hearing shall be given the affected person by depositing such notice in the United States mail.

(e) *Right of appeal.*

(1) *Generally.* Any person aggrieved by any decision of the city administrator shall, after hearing, have the right to appeal to the board of aldermen of the city by filing a written appeal with the city clerk within ten days following the effective date of the action or decision complained of.

(2) *Notification of city administrator.* At the time of filing any such appeal, a copy thereof shall be filed by the appellant with the city administrator.

(3) *Hearing.* The board of aldermen shall fix a time and place for hearing the appeal and shall serve a written notice by ordinary mail upon the appellant informing him thereof.

(4) *Actions by board of aldermen.* The board of aldermen shall conduct a record hearing and, upon conclusion of such hearing, issue such orders as are, within the discretion of the board, determined to be proper under the circumstances. The board of aldermen may accept, reject or modify the decision and/or order of the city administrator.

(5) *Effect of decision.* The findings of the board of aldermen shall be final and conclusive and shall be served on the appellant by ordinary mail.

(f) *Liability of violator.*

(1) *Unpaid fee constitutes debt.* The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt to the city.

(2) *Action by city attorney.* The city attorney shall, at the direction of the city administrator, institute civil suit in the name of the city to recover any such unpaid fee.

(3) *Civil judgment no bar.* No civil judgment, or any act by the city attorney, the city administrator or the violator, shall bar or prevent a criminal prosecution for each and every violation of this article.

Section 20A-16. Site Plan Review, Accessory Uses and Design Requirements Generally. [Ord. No. 191, §4; Ord. No. 344, §3; Ord. No. 563, §6; Ord. No. 645, §3; Ord. No. 675, §2; Ord. No. 807 §1]

Site plan review shall be performed by the planning and zoning commission and the board of aldermen.

Mobile home trailer coach parks shall conform to the following regulations:

(a) *Permitted accessory uses.*

(1) *For mobile home parks.* Management headquarters, recreational facilities, community buildings, including toilets, showers, laundry facilities, vending machines and other uses and structures customarily incidental to operation of a mobile home park.

(2) *For individual mobile home lots.* Porches, and one storage building of acceptable materials and construction, not exceeding one hundred square feet in area, in accordance with sound building practices, shall be located so as to provide setback of 10% of lot width for each side yard.

(b) *Design standards.*

(1) *Minimum lot area.*

a. Mobile home park: Fifty acres.

b. Individual lot size: Seven thousand five hundred square feet.

(2) *Minimum lot width.*

a. Mobile home park: Eight hundred feet.

b. Individual lot: Sixty feet.

(3) *Minimum lot depth.*

a. Mobile home park: Eight hundred feet.

b. Individual lot: One hundred twenty feet minimum.

(4) *Maximum height of accessory buildings.*

a. Park: Twenty feet.

b. Individual trailer lot: Ten feet.

(5) *Minimum setback requirements* (measured from the mobile home to the lot line).

a. Front yard. Setback from public street, road or interior drive: Thirty feet.

b. Side yard. Setback: 10% of lot width, for each side yard.

c. Rear yard. Setback: a minimum of twenty feet.

d. No more than one mobile home shall be parked on any one lot.

(6) *Public utilities.*

a. The mobile home park shall comply with all sanitary and other requirements prescribed by law or regulation.

b. All utility lines shall be underground, including electrical wiring, telephone lines and cable TV.

c. Each mobile home lot shall be provided with electrical outlets installed in accordance with applicable codes and regulations.

d. Each mobile home lot shall be provided with individual water and sewer connections to public water and sewer systems and be solidly capped when not in use.

e. Each mobile home trailer coach in park shall be considered a household for the purpose of garbage and rubbish control and subject to the applicable ordinances.

f. Mobile homes shall be located on concrete pads not less than the size of the trailer. Such pads shall be a minimum of six inches depth of concrete.

g. Each trailer coach space shall have a concrete patio of at least seven feet width by twenty-two feet adjacent to the parked trailer space.

h. Space shall be provided for the parking of recreational vehicles with a ratio of one parking space for every five trailer coach spaces available. Recreational vehicles are defined as any boat, trailer, or van containing built-in kitchen equipment.

i. Central aboveground storage tanks for heating gas shall be allowed, but on a fenced and screened lot. Individual gas tanks shall be prohibited except for portable Bar-B-Que pits using tanks of thirty pounds of less.

j. Lighted walkways shall be provided along both sides of any roadways existing within the interior of the mobile home park. The walkways shall be a minimum of two feet wide and having surface lighting or light posts existing every twenty-five feet.

k. If a public laundry facility is constructed, additional parking spaces shall be provided with a ratio of one parking space for every five trailer coach spaces available.

(7) *Mobile home park expansion.* No existing mobile home park shall be enlarged or extended:

a. When such park does not meet the applicable health or safety requirements.

b. Where such park is in violation of regulations and standards regarding sewage treatment or discharge, pollution or water quality.

c. Unless the enlargement or extension conforms to these regulations.

(8) *Protective screening.* The development shall be surrounded by a landscaped or wooded strip of open space at least thirty feet wide along exterior boundary of the mobile home park. The rear yard setback requirements may not be used for partial fulfillment of the protective screening requirement.

(9) *Recreational area.* The development shall have a minimum area of eighty thousand square feet plus three hundred fifty square feet per trailer coach space in the park. Recreational areas may not include the protective screening required in paragraph (8) of this subsection, nor the area required for storm water detention facilities in paragraph (12) of this subsection. Recreational facilities shall include:

a. Playground equipment.

b. Swimming pool.

c. Tennis courts.

(10) *Off-street parking.* A minimum of two paved off-street parking spaces shall be provided for each mobile home lot and shall comply with Article XV of Chapter 23 of this Code, "Off-Street Parking Regulations."

(11) *Access.*

a. Access to the mobile home park or subdivision shall not be from a minor residential street.

b. The number and location of access drives shall be controlled for traffic safety and protection of surrounding properties.

c. No individual lot shall have direct access drives to a street outside the boundaries of the park.

d. Interior access drives shall be properly lighted.

e. Interior access drives and through collector streets shall be in compliance with the standards of the Subdivision Regulations and shall be dedicated to the city in compliance with such regulations.

(12) *Topography.*

a. The topography of the mobile home park or subdivision shall be such that rapid drainage will be facilitated and that adequate drainage facilities can be provided, including storm water detention facilities as set out in the Subdivision Regulations.

b. A reasonable effort shall be made to preserve the natural amenities of the mobile home park or subdivision.

c. Mobile home parks shall not be located in floodplain designated areas.

(13) *Mobile home structure.*

a. All mobile homes shall be securely tied down. Tie-downs shall meet the specifications and requirements of the city and state.

b. All mobile homes shall be underskirted in such a way that all areas directly under the mobile home are enclosed.

c. All mobile homes shall be in good condition and appearance and not be in a dilapidated or run-down condition.

d. Mobile homes needing extensive repairs shall not be brought in. However, this shall not preclude a resident of a previously occupied mobile home from making repairs to his mobile home damaged by fire or other cause while within that particular mobile home park within the city.

e. Mobile homes that are damaged by fire or other cause shall begin repairs within thirty days after the damage occurred and shall be complete within ninety days or be removed from the park.

f. The building commissioner shall have the authority and responsibility to administer and enforce the provisions of this article.

Section 20A-17. Register of Occupants. [Ord. No. 191, §4; Ord. No. 326, §8; Ord. No. 645, §3; Ord. No. 675, §3]

It shall be the duty of the permittee to keep a register containing a record of all trailer coach owners and occupants located within the park. The register shall contain the following information:

(a) Name and address of each occupant.

(b) The make, model and year of all automobiles and trailer coaches.

(c) License number and owner of each trailer coach and automobile by which it is towed.

(d) The state issuing such licenses.

(e) The dates of arrival and departure of each trailer coach.

The park shall keep the register available for inspection at all times by law-enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three years following the date of departure.

Each permittee shall keep a register of mobile homes and their previous locations prior to a park within the city. Mobile homes previously located within areas known to have contaminated or hazardous materials shall be prohibited from being located within a mobile home park within the city.

Section 20A-18. Enforcement; Violations and Penalties. [Ord. No. 675, §4]

It shall be the duty of the building commissioner to enforce this article.

The occupant or owner of a mobile home in or upon which a violation of any provisions of this article has been committed or shall exist, or any other person who commits, takes part in or assist in any violation or who maintains any mobile home in or upon which such violation shall exist, shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars and not more than five hundred dollars for each day that such violation continues, or by imprisonment for ten days for each day such violation shall continue, or by both such fine and imprisonment, in the discretion of the court.

Any such person who, having been served with an order to remove any such violation, shall fail to comply with the order within ten days after such service, or shall continue to violate any provision of the regulations made under authority of this article in the respect named in such order, shall also be subject to a civil penalty of five hundred dollars.

ARTICLE III
Public Campground Regulations

Section 20A-19. Compliance Required. [Ord. No. 645, §5]

Public campgrounds shall be required to comply with requirements contained herein.

Section 20A-20. "Traveler" Defined. [Ord. No. 1097 §§1 — 2, 4-19-1994; Ord. No. 1616 §1, 6-4-2002]

"Traveler" shall mean a person or persons seeking overnight camping privileges in a public campground for travelers. No traveler shall be permitted to occupy a public campground or combination of campgrounds in the City for more than ninety (90) days within any six (6) month period. The intent of this Section is to provide for vacation, recreational and leisure oriented use of campground facilities and to prohibit any establishment of residency.

Section 20A-21. Permit — Required. [Ord. No. 645, §5]

(a) It shall be unlawful for any person to maintain or operate within the city any public campground for travelers unless such person shall first obtain a permit therefor. A permit shall expire on December 31 of each year and there shall be an annual permit charge of not less than twenty-five dollars or such an amount in excess of twenty-five dollars as may be designated by the board of aldermen for each public campground for travelers. This fee shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty-cent figure,

and shall not be further adjusted during the course of the year in question, during the next year in question when such further adjustments, if warranted as provided herein, shall be made.

(b) Applications for a permit to construct and operate a public campground for travelers shall be issued by the board of aldermen of the city. Application shall be in writing, signed by the person who will own, maintain or operate the proposed public campground for travelers and shall contain the following information:

(1) The name and address of the persons who will own, maintain and operate the proposed public campground for travelers.

(2) The location and legal description of the public campground for travelers.

(3) A complete plot plan of the public campground for travelers showing compliance with all of the provisions of this article and chapter 23.

(4) Plans and specifications of all buildings and other improvements to be constructed within the public campground for travelers.

(5) Such other and further information as may be requested by the board of aldermen to enable it to determine if the proposed public campground for travelers will comply with all requirements.

The application and all accompanying plans and specifications shall be filed in triplicate. The board of aldermen shall investigate the applicant and inspect the proposed plans and specifications.

Upon a finding of a good moral character of the applicant and compliance with all ordinances and statutes, and after satisfying itself that the public campground for travelers is reasonable and proper in its proposed location, the board of aldermen shall approve the application and upon completion of the public campground for travelers according to the plans submitted, they shall issue the permit hereunder.

(c) The permit shall be conspicuously posted in the office or on the premises of the public campground for travelers at all times.

Section 20A-22. Same — Revocation. [Ord. No. 645, §5]

The board of aldermen of the city may revoke any permit to maintain and operate a public campground for travelers when the permittee has been found guilty by a court of competent jurisdiction of violating any provisions of this article or chapter 23. After such conviction, the permit may be reissued if the circumstances leading to conviction have been remedied and evidence given that the public campground for travelers will be maintained and operated in full compliance with the law.

Section 20A-23. Occupancy Register. [Ord. No. 645, §5]

It shall be the duty of the permittee to keep a register containing a record of all automobiles and occupants located within the public campground for travelers. The register shall contain the following information:

(a) Name and address of each occupant.

(b) The make, model and year of all automobiles.

(c) License number and owner of each automobile.

(d) The state issuing the license.

(e) The dates of arrival and departure of each occupant.

The public campground for travelers shall keep the register available for inspection at all times by law-enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three years following the date of departure.

Section 20A-24. Density and Size Requirements. [Ord. No. 645, §5]

Maximum density shall be no more than fifteen campsites per acre. Minimum size of campsite shall be two thousand square feet (not including streets). The minimum size of a campground shall be twenty acres or more.

Section 20A-25.1. Streets. [Ord. No. 645, §5.; Ord. No. 1616 §2, 6-4-2002]

Street minimum construction shall be of gravel or stone which has been compacted and has a minimum of six (6) inches in thickness.

Street width shall be as follows: One-way minimum street width, twelve (12) feet; two-way minimum street width, twenty-five (25) feet; minimum turning radius at inside turn shall be thirty (30) feet.

Section 20A-25.2. Outdoor Storage. [Ord. No. 1616 §2, 6-4-2002]

(a) The Planning and Zoning Commission and Board of Aldermen may, under the special use permit provisions, give consideration to outdoor storage areas.

(b) Outdoor storage areas shall be screened from public view through use of earth berms, fencing or landscaping or a combination thereof. Fencing and landscaping used for screening of outdoor storage areas shall be decorative in nature and maintained in an acceptable manner. Decorative fences do not include chain link fences, with or without slats. Outdoor storage areas shall have a minimum surface covering of six (6) inches of rolled gravel.

Section 20A-25.3. Off-Site Parking.

(a) The Planning and Zoning Commission and Board of Aldermen may, under the special use permit provisions, give consideration to applications for parking or storage of recreational vehicles, campers and recreational trailers on behalf of the owner or operator of same within public campgrounds.

(b) *General Provisions.*

(1) The owner or operator of the land on which the off-site parking or storage activity is being conducted shall be the applicant, not the owner or operator of the recreational vehicles, campers and recreational trailers being stored on same.

(2) Consideration criteria will be reviewed a minimum of annually, and if an inspection of property and the recreational vehicles, campers and recreational trailers located thereon results in a determination that any standards are lacking, City staff may place the applicant on notice and request review of the off-site parking authority, with the possible outcome of off-site parking authority rescission by the Board of Aldermen.

(3) The assessment and professional opinion of City staff shall be the factor in determining if an activity presently being conducted or to be proposed is not in conformance with these provisions. The Planning and Zoning Commission shall be the appeals body for such a staff determination.

(4) All areas utilized for off-site parking or storage, and ingress/egress thereto, shall be surfaced with a minimum of six (6) inches of rolled gravel in conformance with City specifications.

(c) *Off-site Parking Or Storage Consideration.* In addition to normal factual determination criteria, following are examples of factors which may be examined or conditions which may be imposed during the course of application consideration:

(1) Existing and/or proposed lot improvements and topographical conditions.

(2) Impact on adjacent properties (property values, aesthetics, etc.).

(3) Effects on general community standards (passersby, etc., not immediately adjacent to the subject site).

(4) What can be stored at a particular location (type, number, etc.).

(5) Degree to which it might create or exacerbate hazardous or unsanitary conditions.

(6) Creation or aggravation of general nuisances such as visual, noise, odor, etc.

(7) Ongoing lot and/or recreational vehicle/camper/recreational trailer maintenance standards.

(8) Landscaping/screening/buffer requirements.

(9) Ingress/egress and general traffic impact standards.

(10) Proximity to residential zoning districts or residentially utilized property in other zoning districts.

(11) Proximity to other businesses and/or property lines and/or streets.

(12) No wrecked, derelict, or otherwise unsightly or unsafe recreational vehicles, campers and recreational trailers.

Section 20A-26. Building Code, Etc., Compliance Required. [Ord. No. 645, §5]

All buildings, structures and other construction at a campground for travelers shall comply with the BOCA Building Code and all applicable ordinances of the city.

Section 20A-27. Sanitary Facilities Generally. [Ord. No. 645, §5.]

There shall be a ratio of one comfort station provided for each thirty campsites. No campsite shall be located farther than three hundred feet from a comfort station. For the purposes of this paragraph, a "comfort station" shall be defined as one toilet, one lavatory and one shower, with related plumbing facilities.

All showers and lavatory fixtures are to be provided with adequate hot and cold water and an automatic hot water control valve which will not permit hot water temperatures to exceed one hundred twenty degrees Fahrenheit.

Section 20A-28. Dump Station. [1] [Ord. No. 645, §5]

A sewage dumping station shall be constructed in all campgrounds. Construction shall be in accord with the city Plumbing code and properly maintained.

Section 20A-29. Lighting Generally. [Ord. No. 645, §5]

Site lighting shall be such that adequate security can be maintained during the evening hours but not so as to interfere with sleeping.

Section 20A-30. Recreational Facilities. [Ord. No. 645, §5]

All public campgrounds for overnight travelers shall have the following minimum recreational facilities:

(a) Children's playground.

(b) Recreation building or space in a multi-purpose building; minimum recreational space, four hundred square feet.

(c) Swimming pool, concrete or gunite construction; minimum size sixteen by thirty-two feet, minimum deck of concrete surrounding pool ten feet wide. The swimming pool shall meet county health department requirements.

Section 20A-31. Utility Hook-Ups. [Ord. No. 645, §5]

A minimum of fifteen percent of all campsites shall be equipped with sewer hook-ups. A minimum of fifty percent of all campsites shall have individual water and electric hook-ups. Electric service shall be a minimum of one weather-proof duplex electrical outlet of 120 volts, 20 amperes with ground. Each water connection shall be with three-fourths inch riser and hose bib. The water system for the campground shall be designated to provide a minimum of twenty gallons per day per campsite.

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[1]. **Editor's Note — Ord. no. 1616 §3, adopted June 4, 2002, repealed section 20A-28 in its entirety and renumbered subsequent sections. Former section 20A-28 derived from ord. no. 645 §5.**

Section 20A-32. Street Lighting. [Ord. No. 645, §5]

There shall be a street light at each intersection of a one-way with a two-way street. All service buildings, comfort stations and their immediate area, inside and outside, shall be lighted.

Section 20A-33. Screening. [Ord. No. 645, §5]

Any campsites which are within one hundred feet of a property boundary shall be screened to protect adjoining property. Such screening may be shrubs, plantings or closed fencing.

Section 20A-34. Fees. [Ord. No. 645, §5]

The schedule of fees of the city for multiple extensions or connections of either the water or sewer system shall apply to each permanent building, comfort station and dumping station. If the public campground for travelers is open to travelers less than twelve calendar months per year, the owner or operator may negotiate with the mayor that portion of the water and sewer charges applicable to individual campsites which are not used for the full year. Any such negotiations must be carried on prior to the closing of the individual campsites or the full rates shall apply. The mayor is hereby authorized to negotiate for the city and to make reasonable adjustments in the charges for individual campsites, taking into consideration the periods when campsites are not being used, subject to the approval of the board of aldermen.

Chapter 21

TAXICABS AND HORSE-DRAWN CARRIAGES

§ 21-1. "Taxicab" Defined; Applicability of Chapter. [Ord. No. 90, §1]

The term *"taxicab"* shall mean and include any motor vehicle engaged in the business of carrying persons for hire on the streets of the city, whether the same is operated from a street-stand or from a garage, where no regular or specific route is traveled but passengers are taken to and from such places as they may designate; whether the charge therefor is made on the basis of distance traveled as indicated by a taximeter or speedometer attached thereto, or by any other method of determining distance, such as by zoning system or otherwise, or the time consumed in traveling, or on any other basis whatever.

This chapter shall not apply to any motor vehicle used as a sight-seeing car; a *"sight-seeing car"* being defined as a motor vehicle having a seating capacity in excess of ten persons and which is used for the purpose of conveying passengers on sight-seeing tours as the term is generally understood, and where the basis for charge is the time or circuit route traveled by such cars in regular trips. Nor shall it apply to *"service cars"* or *"buses"* as those terms are generally understood and are defined.

§ 21-2. Business License — Required; Application. [Ord. No. 90, §2]

(a) No person shall engage in the business of operating a taxicab upon the streets of the city without first obtaining a license to do so. Such license shall be issued by the city collector after the application therefor has been approved and the requisite fee paid, as hereinafter prescribed, and after all other provisions of this chapter pertaining to the obtaining or issuing of the license have been complied with.

(b) Application for a license to engage in the business of operating a taxicab shall be filed with the city clerk and referred to the board of aldermen for consideration and determination. The application shall be in writing, certified by the applicant, or, if the applicant is a corporation, firm or partnership, by its duly authorized officer or agent, and shall state the following facts:

(1) The full name and address of the applicant; if a partnership, firm or corporation, the names and addresses of all the officers and directors thereof, or partners.

(2) The name and address of the owner of the vehicles proposed to be operated.

(3) A statement of the previous experience the applicant has had, or if the applicant is a partnership, the partners thereof have had; or, if the applicant is a corporation, the officers and directors have had, in the taxicab business.

(4) The number of taxicabs the applicant desires to operate within the city.

(5) The seating capacity of each vehicle proposed to be used as a taxicab according to the manufacturers' rating, which shall not be less than three in the tonneau thereof.

(6) The type of motor car to be used, horsepower, name of make, the length of time such vehicle has been in use, the insurance proposed to be carried, the amount of same and the name of the company issuing the policy.

(7) The color scheme of the taxicab proposed to be used.

(c) The application shall be accompanied by a certificate of inspection from the chief of police, who shall inspect all taxicabs. Such certificate, however, shall not be necessary in case the vehicles proposed to be operated as taxicabs are new and have not been in use theretofore.

§ 21-3. Same — Factors to be Considered Prior to Issuance. [Ord. No. 90, §3]

The board of aldermen shall have power to approve any application and order a license issued or refuse to do so, as it may deem proper. In determining whether such application shall be approved and the license issued, or otherwise, the board shall take into consideration whether the demands of the public require such proposed or additional taxicab service within the city, the financial responsibility of the applicant, the number, kind and type of equipment and the color scheme proposed to be used, the increased traffic congestion and the demand for increased parking space upon the streets of the city which may result, and whether the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such license, and such other relevant facts as the board may deem advisable or necessary.

§ 21-4. Same — Issuance. [Ord. No. 90, §4]

If the board of aldermen shall approve the application and authorize the issuance of the license applied for, the city collector shall, after payment by the applicant of the fee prescribed therefor, issue such license and deliver the same to the applicant. If the board shall refuse to approve the application, the city collector shall make a record to that effect thereupon and notify the applicant that his application has been disapproved.

§ 21-5. Same — License Tax Generally; Renewal; Posting. [Ord. No. 90, §5; Ord. No. 616, §1]

Before such license shall be issued the applicant shall pay to the city collector twelve dollars as an annual license tax for each taxicab to be operated for the conveyance of passengers upon, along or over the streets of this city. The license shall expire on January 1 after the date of its issuance; provided, that when any license is issued after July 1 of any year the fee for the remaining portion of the year shall be seven dollars and fifty

cents. All such licenses may thereafter be renewed annually upon January 1 of each year upon payment of the required fee. The license so issued shall be posted in the vehicle for which issued at all times and is not transferable or assignable to any other vehicle.

These license taxes shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty-cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

§ 21-6. Same — Effect of License Tax on Other Taxes. [Ord. No. 90, §10]

The license tax required in this chapter shall be a tax on the business of conveying passengers over and upon the streets in the city by means of taxicabs, and nothing herein shall be so construed as to exempt the owner from paying the city the tax imposed by the city in licensing motor vehicles or automobiles to be operated on its streets, or any registry tax which the city may levy on motor vehicles or automobiles, or the tax which the city levies on motor vehicles or automobiles as personal property, and nothing herein shall be so considered as to exempt the owner or driver of a vehicle from the qualifications which the state may require of persons who operate motor vehicles or automobiles.

§ 21-7. Same — Revocation. [Ord. No. 90, §13]

The mayor and board of aldermen shall have authority at any time to revoke any and all licenses granted under this chapter, after first having granted the owner or operator of the taxicab a hearing on the question of whether or not the license should be revoked. Upon revocation of any license, no portion of the license fee shall be refunded.

§ 21-8. Insurance. [Ord. No. 90, §§6, 7]

Every applicant for a license to operate a taxicab, and the owner of the taxicab, in addition to the requirements mentioned in this chapter, shall maintain and carry for each taxicab licensed to be operated, liability insurance in the sum of not less than one hundred thousand dollars for any one person and the sum of two hundred thousand dollars for any two or more persons who may be injured in any one accident, and not less than five thousand dollars for any property damage, at any time by reason of the carelessness of the driver or operator of such taxicab. Such insurance shall be carried in a firm or corporation which has been duly licensed or permitted to carry on such insurance business in the state and shall be kept and maintained continually in force and effect so long as such applicant and owner of such taxicab shall be licensed to operate the same on the streets of this city.

It shall be unlawful for any person to operate or drive, or cause to be operated or driven, any taxicab along or upon any public street in the city unless the policy of insurance

required by this section for such taxicab shall have been filed with the city clerk and is in full force and effect. If any policy of insurance required by this section covering any or all of the taxicabs authorized to be operated by virtue of a license issued therefor, is cancelled or permitted to lapse, and the holder of such license fails to replace the same immediately with another policy of insurance fully complying with the provisions of this section, such license or licenses issued thereunder shall be immediately suspended.

§ 21-9. Monthly Report of Accidents. [Ord. No. 90, §7]

Every licensee shall on or before the fifth day of each month, file with the chief of police of this city a report showing the number of accidents in which any taxicab owned or operated by him was involved during the preceding month, the nature of the accident, the damage, if any, to persons or property resulting therefrom, and the names and addresses of all persons claiming damage arising from any taxicab accident, and whether such claim is pending, in suit, or paid. The failure to file such report within the time herein provided, or the filing or causing or intentionally permitting the filing of a false report, shall constitute a violation of this chapter and shall also be ground for forfeiting the license of the owner or operator of the taxicab involved.

§ 21-10. Drivers to Have State Chauffeurs' Licenses; Fingerprinting of Driver. [Ord. No. 90, §8]

No person shall drive a taxicab licensed under the provisions of this chapter who is not a duly licensed chauffeur as required by the laws of the state, and who has not submitted and given his finger prints to the police department of the city. Each person before so operating a taxicab, shall be fingerprinted and shall submit to the chief of police of this city for inspection his chauffeur's license, and shall have the chauffeur's license at all times available for the inspection and examination by the chief of police or any police officer upon demand.

§ 21-11. Inspections of Vehicles. [Ord. No. 90, §9]

The department of police of the city shall maintain constant vigilance over all taxicabs and shall inspect all such vehicles to ascertain that they are in a thoroughly safe condition for the transportation of passengers, kept clean, fit and of good appearance. Such inspection shall be made at least annually before the issuance or renewal of any license therefor, and thereafter from time to time, or at the complaint of any person, or as often as may be necessary to ascertain that such taxicabs are kept in a condition of continued fitness for public use; and it may forbid the use of any vehicle by the owner thereof found to be unfit or unsuited for public patronage. It shall also examine the taximeter, speedometer or any other measuring device attached to any taxicab to determine that the same is at all times accurate.

§ 21-12. Increase or Decrease in Number of Taxicabs Operated by Licensee. [Ord. No. 90, §11]

The provisions of this chapter shall apply to any licensee who desires to increase the number of taxicabs to be operated, and no person who has been licensed to operate

taxicabs may discontinue any of them without first filing with the city clerk a certified statement of the number of vehicles he desires to discontinue operating and the reasons therefor. The withdrawal of any vehicle from operation for the purpose of conditioning, overhauling or repairing the same shall not be considered discontinued operation under this section. Upon complete abandonment of taxicab service for a period of thirty days by any owner or operator of taxicabs, the board of aldermen may recall or revoke the license issued to such owner or operator.

§ 21-13. Taxicab Stands; Solicitation of Passengers; Maximum Number of Passengers. [Ord. No. 90, §12]

The board of aldermen shall authorize the chief of police to designate such stands or stopping places for taxicabs from which stands business may be solicited and from which stands a sign may be displayed stating that the taxicabs are for hire and the rate of fare. Such driver of such taxicab may also solicit employment by driving through any public street; provided, that such does not interfere with the free flow of traffic. Six passengers shall constitute the maximum allowable load to be carried in a taxicab at any one time.

§ 21-14. "Horse-Drawn Carriage" Defined. [Ord. No. 2094 §2, 8-18-2009]

The term *"horse-drawn carriage"* shall mean a passenger vehicle on wheels pulled by one (1) or more horses.

§ 21-15. Horse-Drawn Carriage Operation. [Ord. No. 2094 §2, 8-18-2009]

A horse-drawn carriage may be operated on city rights-of-way and in city parks subject to the following conditions:

(a) An annual business license must be obtained by the individual or entity engaging in such activity.

(b) A certificate of insurance must be provided, naming the city as an additional insured party.

(c) The city must approve each instance of the proposed activity. The carriage ride operator must submit proposed dates, times and locations to the police chief for consideration five (5) business days in advance of the proposed date(s).

(d) The carriage ride operators shall ensure that horse diapers are utilized at all times.

(e) Carriage ride operators may operate horse-drawn carriages in city parks if such are operated on hard surfaced drive lanes or hard surfaced parking areas.

Chapter 22

WATER

ARTICLE I
In General

Section 22-1. Waterworks and Sewer Systems Combined. [Ord. No. 201, §2]

The existing waterworks of the city and the existing sanitary sewerage system and all future improvements and extensions thereto, whether to the waterworks or to the sewerage system or to both, shall be and the same are combined and it is hereby declared that the waterworks and the sewerage systems, and all future improvements and extensions thereto as aforesaid, thenceforth shall be operated and maintained as a combined waterworks and sewerage system.

Section 22-1.1. Hook-On Fees for Certain Construction. [Ord. No. 451, §§1,2; Ord. No. 616, §1.; Ord. No. 2047 §2, 6-17-2008]

(a) All new residential and commercial construction, together with existing construction remodeled or altered to the extent that its use is materially changed, shall, in order to use the water system of the City, be required to pay a hook-on fee of one hundred seventy-five dollars ($175.00) for each residential unit and three hundred fifty dollars ($350.00) for each individual commercial unit. For purposes of this Section, a residential unit in single-family residential zoning districts shall be considered to be one (1) principal structure and up to two (2) ancillary or accessory structures which need not be connected simultaneously.

(b) Residential developments of forty (40) units or more and community unit developments shall not be required to pay hook-on fees as provided for in subsection (a) of this section, but shall be treated as separate projects for which water use hook-on fees shall be determined and charged after consideration by the planning and zoning commission, the board of aldermen and/or the city engineer based upon their impact upon the city's water system.

(c) These fees shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty-cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next

year in question, when such further adjustments, if warranted as provided herein, shall be made.

Section 22-1.2. Refunds or Credit for Water Use Charges for Certain Senior Citizens. [Ord. No. 427, §§1 to 4; Ord. No. 701, §1]

(a) As used herein, the terms listed below are defined as follows:

BENEFITS — The minimum charges assessed against and collected from resident users by the city for water consumption, together with taxes thereon, if any.

ELIGIBLE RESIDENT — A person possessing all of the following qualifications:

(1) Full-time resident of the city.

(2) Age sixty-five years at date applications for benefits made and during the entire time for which benefits are claimed.

(3) Primarily liable for the taxes or rent for the living unit occupied.

(4) Income, together with the income of all other persons occupying the living unit, from all sources, including, but not limited to, Social Security payments, Old Age Assistance, earnings, interest, dividends and capital gains, did not equal the dollar amount stated in the following table for the calendar year immediately preceding the date of application for benefits:

Calendar Year	**Maximum Income**
1983	$10,500.00
1984	$11,000.00
1985	$11,500.00
1986 and following years	$12,000.00

LIVING UNIT — The dwelling occupied by an eligible resident, whether owned or rented.

(b) Retroactive to January 1, 1975, an eligible resident shall, upon application to the city clerk, be entitled to refund and/or nonassessment or credit for the basic minimum monthly charges and tax, if any, assessed by the city for residential water usage, together with tax thereon, if any;

(c) Application for the benefits provided for in this section shall be made by eligible residents not later than sixty days following April 1, 1975, and thereafter within sixty days after they have attained age sixty-five. Failure to make such timely application will limit applicants to nonassessment of or credit for minimum water and waste disposal charges accruing thereafter. Such application shall be made to the city clerk, who is hereby authorized to require proof of eligibility, including, but not limited to, proof of age, income tax status, proof of prior utility payments and record of earnings.

(d) Refunds herein provided for shall be paid from the general revenues of the city.

Section 22-1.3. Fluoridation Ordered. [Ord. No. 481, §1]

As soon as is practicable, all water dispensed for human consumption by the city water department shall be fluoridated to the extent currently recommended by the bureau of dental health, state department of health, and to the extent thereafter that such recommendation is changed.

Section 22-1.4. Right of Entry. [Ord. No. 486, §3]

The water and sewer commissioner and all other duly authorized city personnel shall have the uncontested right of entry upon property in order to discharge the duties and perform the services provided for in this article.

Section 22-1.5. Rates and Charges Generally — Schedule. [Ord. No. 486, §1; Ord. No. 616, §1.; Ord. No. 1637 §1, 9-17-2002; Ord. No. 1841 §1, 7-19-2005)

The following rates and regulations shall be in effect relating to the use of water distributed by the Water Department of the City:

(a) *Monthly charges.* The monthly cost to users of water shall be computed as follows: [Ord. No. 2272 §3, 10-1-2013]

(1) *Residential.*

For the first 2,000 gallons or fraction thereof:	$11.55
For the first 2,000 gallons or fraction thereof for those participating in the City's Senior Citizen Trash Service Allowance Program:	$3.50
For the next 3,000 gallons or fraction thereof:	$1.13 per 1,000 gallons
For the next 3,000 gallons or fraction thereof for those participating in the City's Senior Citizen Trash Service Allowance Program:	$0.90 per 1,000 gals.
For the next 5,000 gallons or fraction thereof:	$0.94 per 1,000 gallons
For the next 5,000 gallons or fraction thereof for those participating in the City's Senior Citizen Trash Service Allowance Program:	$0.75 per 1,000 gals.
For excess over 10,000 gallons or fraction thereof:	$2.18 per 1,000 gals.
For excess over 10,000 gallons or fraction thereof for those participating in the City's Senior Citizen Trash Service Allowance Program:	$0.75 per 1,000 gals.
Minimum monthly charge	$11.55
Minimum monthly charge for those participating in the City's Senior Citizen Trash Service Allowance Program:	$3.50

(2) *Commercial/industrial.*

For the first 2,000 gallons or fraction thereof:	$8.90
For the next 3,000 gallons or fraction thereof:	$1.51 per 1,000 gallons
For excess over 5,000 gallons or fraction thereof:	$1.33 per 1,000 gallons
For excess over 10,000 gallons or fraction thereof:	$1.33 per 1,000 gallons
Minimum charge:	$8.90

(b) *Unit charges.* In all instances where a single water meter serves more than one (1) family unit or more than one (1) commercial or industrial account or any combination of these, a monthly service charge shall be levied for each consumer unit except the first (1st) unit as follows:

$1.15 (Effective August 1, 2005)

$1.20 (Effective August 1, 2006)

$1.25 (Effective August 1, 2007)

(c) *Repair or replacement charge.* The cost of repairing or replacing water meters larger than three-fourths (¾) inch shall be borne seventy-five percent (75%) by the user and twenty-five percent (25%) by the City.

Section 22-1.6. Water Meter Deposits. [Ord. No. 1800 §1, 11-2-2004]

A water meter deposit shall be required to establish water service for all residential or commercial premises which is served by an individual water meter. Such deposit shall be in the amount of twenty-five dollars ($25.00) for owner-occupied premises and fifty dollars ($50.00) for rental or leased premises. The water meter deposit shall be refunded upon the water service at the subject premises being terminated or transferred if there is no outstanding City utility account balance, however, such may be applied to fully or partially offset any outstanding balance owed to the City.

Section 22-1.7. Rates and Charges — Nonpayment; Disconnection Fee. [Ord. No. 486, §2.; Ord. No. 1620 §1, 7-2-2002; Ord. No. 1800 §1, 11-2-2004; Ord. No. 1844 §1, 8-2-2005]

When monthly charges for water, sewer or solid waste removal services, or any combination thereof, remain unpaid for two (2) months or more, the City shall be authorized to disconnect or discontinue such services. In that event, before such service or services can be resumed, the user shall, in addition to paying the delinquent charge or charges in full, pay twenty-five dollars ($25.00) to cover the cost of restoring the service. In instances when a City employee is requested to restore water service to a property after normal hours of the Public Works Department (Monday through Friday from 8:00 A.M.

to 4:30 P.M.), the cost for restoring such water service shall be forty-five dollars ($45.00).

Section 22-1.8. Unauthorized Opening of or Tampering With Meter Boxes. [Ord. No. 486, §1.; Ord. No. 1800 §1, 11-2-2004]

It shall be unlawful for any unauthorized person to open or tamper with water meter boxes. Persons found guilty of so doing shall be subject to a fine not exceeding five hundred dollars and/or imprisonment for a period not exceeding six months.

Section 22-1.9. Water Impact Fees. [Ord. No. 1100 §§1-6, 5-17-1994; Ord. No. 1566 §§3-4, 11-6-2001; Ord. No. 1800 §1, 11-2-2004]

(a) A water and sewer impact fee is hereby established for all types of development located within all zoning districts of the City with the exception of that enumerated in subsection (d) of this section, pursuant to subsection (g) of this section.

(b) In the case of residential development, water impact fees must be paid to the City in conjunction with, and at the time of building permit issuance. In the case of multiple dwelling unit residential development, such fees may be paid on a lump sum basis or with each building permit. In the case of commercial or industrial development, impact fees shall be calculated and assessed upon an applicant submitting a "Municipal Zoning Approval for Permit Application" form to the City for approval, and said impact fees shall be paid to the City before the issuance of an occupancy permit or business license for the subject premises. Impact fees shall be collected only for new construction; expansions, additions and renovations are exempted, however, additional impact fees may be assessed in the event a building, unit, bay or space is utilized in a manner which is of a higher intensity than that upon which the original impact fee was based.

(c) The City may consider the allocation of all or a portion of required impact fees toward the subject site specific development if there is documented evidence provided by an applicant that there will be substantial benefits provided off-site as well, as approved by the City. In the event that infrastructural improvements must proceed prior to or concurrent with the subject development, the City may consider advancing monies necessary to complete said improvements if same is secured by an escrow approved by the City until such time that all impact fees are collected by the City, only if the City makes a determination that it has the resources readily available and a maximum advancement term is established by the City. These impact fee requirements do not in any way relieve an applicant of any water and sewer infrastructure installation requirements, connection fees or any other customary fees or costs.

(d) The following types of proposed construction or development which may or may not have already had impact fees imposed are exempt from these provisions: single lot, private owner residence development, residential subdivision developments having received at least preliminary approval as of May 17, 1994, and commercial or industrial projects or facilities approved by the City as of May 17, 1994. All

impact fees which were imposed prior to May 17, 1994, shall remain in full force and effect at their respective pre-existing levels.

(e) Water and sewer impacts fees imposed and collected by the City may not be utilized by the City or its assigns for any other purpose than the construction, operation and maintenance of the water and sanitary sewage systems.

(f) Any impact fee schedule adjustments must be approved by the Board of Aldermen.

(g) *Water impact fees.* Ancillary structures such as storage sheds or storage buildings are excluded from these fees. The City shall make a determination as to the applicability of the fee structure in cases where building classification is in question or in cases of general interpretation of this schedule.

Single-Family Residential Development: Per single-family residence.

Water Impact Fee: $1,000.00

Multiple-Family Development: Per unit regardless of the number of units in a single building (50% of Single-Family Residence Fees):

Water Impact Fee: $500.00

Commercial Development: Per building, store, unit or bay, whichever is greater in number.

(a) Commercial entities using water in sales or production (250% of Single-Family Residence Fees):

Water Impact Fee: $2,500.00

(b) Commercial entities not using water in sales or production (150% of Single-Family Residence Fees):

Water Impact Fee: $1,500.00

Light Industrial Development: Per building, store, unit or bay, whichever is greater in number.

(a) Light Industrial entities using water in sales or production (350% of Single-Family Residence Fees):

Water Impact Fee: $3,500.00

(b) Light Industrial entities not using water in sales or production (150% of Single-Family Residence Fees):

Water Impact Fee: $1,500.00

Heavy Industrial Development: Per building, store, unit or bay, whichever is greater in number.

(a) Heavy Industrial entities using water in sales or production (450% of Single-Family Residence Fees):

Water Impact Fee: $4,500.00

(b) Heavy Industrial entities not using water in sales or production (150% of

Single-Family Residence Fees):

Water Impact Fee: $1,500.00

Office Development: For purposes of this Section, an "office" is a place of business characterized by the absence of retail sales as a principal business activity.

Water Impact Fee: Forty cents ($.40) per square foot.

Section 22-1.10. Water Service Line Repair Program. [Ord. No. 1505, 1-16-2001; Ord. No. 1800 §1, 11-2-2004]

Pursuant to St. Louis County Ordinance No. 20,110 as authorized by Section 66.405 RSMo., an election was held in St. Louis County on November 7,2000 and the qualified voters of St. Louis County approved the imposition of a one dollar ($1.00) per month fee to provide funds to pay for repair or replacement commencing July 1, 2001, of water lines extending from the water main to a residential dwelling due to failure of the line or for road relocation. Such fee is to be imposed upon residential property having four or fewer dwelling units.

The City has the contractual authority to administer the program, collect the monthly fees associated with the program and to develop and enforce program guidelines.

ARTICLE II
Water Service Outside City

Section 22-2. Contract Between City and Individual Authorized. [Ord. No. 158, §1]

The board of aldermen is hereby authorized to enter into contract with individuals who live without the corporate limits of the city and who are desirous of obtaining city water for their own use, to provide them with water service. The mayor is appointed the contracting agent for the city and it shall be his duty to negotiate the contract with any individual so desiring water service, subject to the approval of the board of aldermen in each contract.

Section 22-3. Service Charges. [Ord. No. 158, §§2,3; Ord. No. 171, §2; Ord. No. 453, §1; Ord. No. 456, §1; Ord. No. 1841 §2, 7-19-2005]

In a contract under this Article it shall be provided that a service charge in addition to the regular water rate be charged for this water service.

The service charge provided in this Section shall be:

$8.63 per month for each connection (effective August 1, 2005)
$9.00 per month for each connection (effective August 1, 2006)
$9.38 per month for each connection (effective August 1, 2007)

Section 22-4. Taking Water From Property Within to Property Outside City Prohibited. [Ord. No. 158, §4]

Without a contract under this article, it shall be unlawful for any resident to take water, provided by the city, from his property to any area without the city limits.

ARTICLE III
Requirements for Cross Connections and Backflow Prevention

Section 22-5. Cross Connection Control — General Policy. [Ord. No. 992 §1, 7-2-1991]

(a) *Purpose.* The purpose of this Article is:

(1) To protect the public potable water supply from contamination or pollution by containing within the consumer's internal distribution system or private water system contaminants or pollutants which could backflow through the service connection into the public potable water supply system.

(2) To promote the elimination, containment, isolation, or control of existing cross connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures, and industrial-process systems.

(3) To provide for the maintenance of a continuing program of cross connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

(b) *Application.* This article shall apply to all premises served by the public potable water system of the City of Eureka.

(c) *Policy.* This article will be reasonably interpreted by the water purveyor. It is the water purveyor's intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard.

(c) The water purveyor shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow or contaminants or pollutants through the water service connection. The cooperation of all consumers is required to implement and maintain the program to control cross connections. The water purveyor and consumer are jointly responsible for preventing contamination of the water system.

If, in the judgment of the water purveyor or his authorized representative, cross connection protection is required through either piping modification or installation of an approved backflow prevention device, due notice shall be given to the consumer. The consumer shall immediately comply by providing the required protection at his own expense; and failure, refusal, or inability on the part of the consumer to provide such protection shall constitute grounds for discontinuing water service to the premises until such protection has been provided.

Section 22-6. Definitions. [Ord. No. 992 §§2, 11, 7-2-1991]

The following definitions shall apply in the interpretation and enforcement of this Article:

AIR GAP SEPARATION — The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the overflow level rim of the receptacle, and shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel, but in no case less than one (1) inch.

AUXILIARY WATER SUPPLY — Any water source or system, other than the public water supply, that may be available in the building or premises.

BACKFLOW — The flow other than the intended direction of flow, of any foreign liquids, gases or substances into the distribution system of a public water supply.

BACKFLOW PREVENTION ASSEMBLY — Any double check valve or reduced pressure principle backflow preventer having resilient-seated shut-off valves on both the upstream and downstream end and the necessary test cocks as integral parts of the assembly.

CONSUMER — The owner or person in control of any premises supplied by or in any manner connected to a public water system.

CONTAINMENT — Protection of the public water supply by installing a backflow prevention assembly or air gap separation on the main service line to a facility.

CONTAMINATION — An impairment of the quality of the water by sewage, process fluids, or other wastes to a degree which could create an actual hazard to the public health through poisoning or through spread of disease by exposure.

CROSS CONNECTION — Any physical link between a potable water supply and any other substance, fluid, or source, which makes possible contamination of the potable water supply due to the reversal of flow of the water in the piping or distribution system.

HAZARD, DEGREE OF — An evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

HAZARD, HEALTH — Any condition, device or practice in the water supply system and its operation which would create or may create a danger to the health and well-being of the water consumer.

HAZARD, PLUMBING — A plumbing type cross connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air gap separation or backflow prevention assembly.

HAZARD, POLLUTIONAL — An actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

HAZARD, SYSTEM — An actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system, or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

INDUSTRIAL PROCESS SYSTEM — Any system containing a fluid or solution, which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollutional, or plumbing hazard if introduced into a potable water supply.

ISOLATION — Protection of a facility's internal plumbing system by installing a backflow prevention assembly, air gap separation, or other backflow prevention device on an individual fixture, appurtenance, or system.

POLLUTION — The presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.

PUBLIC POTABLE WATER SYSTEM — Any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the Missouri Department of Natural Resources.

SERVICE CONNECTION — The terminal end of a service line from the publicwater system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.

WATER PURVEYOR — The owner, operator, or individual in responsible charge of a public water system.

Section 22-7. Cross Connections Prohibited. [Ord. No. 992 §3, 7-2-1991]

(a) No water service connection shall be installed or maintained to any premises where actual or potential cross connections to the public potable or consumer's water system may exist unless such actual or potential cross connections are abated or controlled to the satisfaction of the water purveyor, and as required by the laws and regulations of the Missouri Department of Natural Resources.

(b) No connection shall be installed or maintained whereby an auxiliary water supply may enter a public potable or consumer's water system unless such auxiliary water supply and the method of connection and use of such supply shall have been approved by the water purveyor and the Missouri Department of Natural Resources.

(c) No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities, and fixtures have not been constructed and installed using acceptable plumbing practices considered by the water purveyor as necessary for the protection of health and safety.

Section 22-8. Survey and Investigations. [Ord. No. 992 §4, 7-2-1991]

(a) The consumer's premises shall be open at all reasonable times to the water purveyor, or his authorized representative, for the conduction of surveys and investigations of water use practices within the consumer's premises to determine

whether there are actual or potential cross connections to the consumer's water system through which contaminants or pollutants could backflow into the public potable water system.

(b) On request by the water purveyor or his authorized representative, the consumer shall furnish information on water use practices within his premises.

(c) It shall be the responsibility of the water consumer to conduct periodic surveys of water use practices on his premises to determine whether there are actual or potential cross connections to his water system through which contaminants or pollutants could backflow into his or the public potable water system.

Section 22-9. Type of Protection Required. [Ord. No. 992 §5, 7-2-1991]

(a) The type of protection required by this Article shall depend on the degree of hazard which exists, as follows:

(1) An approved air gap separation shall be installed where the public potable water system may be contaminated with substances that could cause a severe health hazard.

(2) An approved air gap separation or an approved reduced pressure principle backflow prevention assembly shall be installed where the public potable water system may be contaminated with a substance that could cause a system or health hazard.

(3) An approved air gap separation or an approved reduced pressure principle backflow prevention assembly or an approved double check valve assembly shall be installed where the public potable water system may be polluted with substances that could cause a pollutional hazard not dangerous to health.

Section 22-10. Where Protection is Required. [Ord. No. 992 §6, 7-2-1991]

(a) An approved backflow prevention assembly shall be installed on each service line to a consumer's water system serving premises where, in the judgement of the water purveyor or the Missouri Department of Natural Resources, actual or potential hazards to the public potable water system exist. The type and degree of protection required shall be commensurate with the degree of hazard.

(b) An approved air gap separation or reduced pressure principle backflow prevention assembly shall be installed at the service connection or within any premises where, in the judgement of the water purveyor or the Missouri Department of Natural Resources, the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present an immediate and dangerous hazard to health should a cross connection occur, even though such cross connection may not exist at the time the backflow prevention device is required to be installed. This includes but is not limited to the following situations:

(1) Premises having an auxiliary water supply, unless the quality of the auxiliary supply is acceptable to the water purveyor and the Missouri Department of Natural Resources.

(2) Premises having internal cross connections that are not correctable, or intricate plumbing arrangements which make it impractical to ascertain whether or not cross connections exist.

(3) Premises where entry is restricted so that inspection for cross connections cannot be made with sufficient frequency or at sufficiently short notice to assure the cross connections do not exist.

(4) Premises having a repeated history of cross connections being established or reestablished.

(5) Premises, which due to the nature of the enterprise therein, are subject to recurring modification or expansion.

(6) Premises on which any substance is handled under pressure so as to permit entry into the public water supply, or where a cross connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters.

(7) Premises where materials of a toxic or hazardous nature are handled such that if backsiphonage or backpressure should occur, a serious health hazard may result.

(c) The types of facilities listed in Section 22-14 fall into one (1) or more of the categories of premises where an approved air gap separation or reduced pressure principle backflow prevention assembly is required by the water purveyor and the Missouri Department of Natural Resources to protect the public water supply and must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected by other methods to the satisfaction of the water purveyor and the Missouri Department of Natural Resources.

Section 22-11. Backflow Prevention Assemblies. [Ord. No. 992 §7, 7-2-1991]

(a) Any backflow prevention assembly required to protect the facilities listed in Section 22-14 shall be of a model or construction approved by the water purveyor and the Missouri Department of Natural Resources.

(1) Air gap separation to be approved shall be at least twice the diameter of the supply pipe, measured vertically above the top rim of the vessel, but in no case less than one (1) inch.

(2) A double check valve assembly or a reduced pressure principle backflow prevention assembly shall be approved by the water purveyor, and shall appear on the current "list of approved backflow prevention assemblies" established by the Missouri Department of Natural Resources.

(b) Existing backflow prevention assemblies approved by the water purveyor at the time of installation and properly maintained shall, except for inspection and maintenance requirements, be excluded from the requirements of this Article so long as the water purveyor is assured that they will satisfactorily protect the water system. Whenever the existing assembly is moved from its present location, or requires more than minimum maintenance, or when the water purveyor finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention assembly meeting the requirements of this Article.

Section 22-12. Installation. [Ord. No. 992 §8, 7-2-1991]

(a) Backflow prevention assemblies required by this Article shall be installed at a location and in a manner approved by the water purveyor and shall be installed at the expense of the water consumer.

(b) Backflow prevention assemblies installed on the service line to the consumer's water system shall be located on the consumer's side of the water meter, as close to the meter as is reasonably practical, and prior to any other connection.

(c) Backflow prevention assemblies shall be located so as to be readily accessible for maintenance and testing, protected from freezing. No reduced pressure principle backflow prevention assembly shall be located where it will be submerged or subject to flooding by any fluid.

Section 22-13. Inspection and Maintenance. [Ord. No. 992 §9, 7-2-1991]

(a) It shall be the duty of the consumer at any premises on which backflow prevention assemblies required by this Article are installed to have inspection, tests, and overhauls made in accordance with the following schedule or more often where inspections indicate a need.

(1) Air gap separations shall be inspected at the time of installation and at least every twelve (12) months thereafter.

(2) Double check valve assemblies shall be inspected and tested for tightness at the time of installation and at least every twelve (12) months thereafter.

(3) Reduced pressure principle backflow prevention assemblies shall be inspected and tested for tightness at the time of installation and at least every twelve (12) months thereafter.

(b) Inspections, tests, and overhauls of backflow prevention assemblies shall be made at the expense of the water consumer and shall be performed by a State of Missouri certified backflow prevention assembly tester.

(c) Whenever backflow prevention assemblies required by this Article are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay.

(d) The water consumer must maintain a complete record of each backflow prevention assembly from purchase to retirement. This shall include a comprehensive listing

that includes a record of all tests, inspections, and repairs. Records of inspections, tests, repairs, and overhauls shall be made available to the water purveyor upon request.

(e) Backflow prevention assemblies shall not be bypassed, made inoperative, removed, or otherwise made ineffective.

Section 22-14. Types of Facilities Representing Cross Connection Hazards. [Ord. No. 992 §12, 7-2-1991]

The following are types of facilities representing cross connection hazards:

(1) Aircraft and missile manufacturing plants;

(2) Automotive plants including those plants which manufacture motorcycles, automobiles, trucks, recreational vehicles and construction and agricultural equipment;

(3) Potable water dispensing stations which are served by a public water system;

(4) Beverage bottling plants including dairies and breweries;

(5) Canneries, packing houses and reduction plants;

(6) Car washes;

(7) Chemical, biological and radiological laboratories including those in high schools, trade schools, colleges, universities and research institutions;

(8) Hospitals, clinics, medical buildings, autopsy facilities, morgues, mortuaries 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;

(15) Sewage, storm water 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 supplier of water or the department;

(19) Fire sprinkler systems using any chemical additives;

(20) Auxiliary water systems;

(21) Irrigation systems with facilities for injection of pesticides, herbicides or other chemicals or with provisions for creating back pressure;

(22) Portable tanks for transporting water taken from a public water system; and

(23) Facilities which have pumped or repressurized cooling or heating systems that are served by a public water system, including all boiler systems.

Section 22-15. Violations. [Ord. No. 992 §10, 7-2-1991]

(a) The water purveyor shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention assembly required by this Article is not installed, tested, and maintained in a manner acceptable to the water purveyor, or if it is found that the backflow prevention assembly has been removed or bypassed, or if any unprotected cross connection exists on the premises.

(b) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this Article to the satisfaction of the water purveyor.

Chapter 23

ZONING

ARTICLE I
In General

Section 23-10. Short Title. [Ord. No. 646 §2]

This chapter shall be known and cited as the "Zoning Ordinance of the City of Eureka, Missouri".

Section 23-11. Purpose. [Ord. No. 646 §2]

This Chapter is adopted to update the zoning provisions of this Code, and to promote health, safety, morals, comfort and general welfare; to secure economic and coordinated land use in accord with the "Eureka City Plan"; and to facilitate the adequate provision of public improvements.

Section 23-12. Definitions. [Ord. No. 646 §2; Ord. No. 915 §2; Ord. No. 1016 §1, 3-3-1992; Ord. No. 1030 §2, 7-21-1992; Ord. No. 1185 §1, 8-1-1995; Ord. No. 1194 §§2-3, 9-19-1995; Ord. No. 1294 §1, 6-17-1997; Ord. No. 1310 §1, 9-16-1997; Ord. No. 1488 §1, 10-17-2000; Ord. No. 1525 §1, 5-15-2001; Ord. No. 1633 §1, 9-17-2002; Ord. No. 1697 §1, 6-3-2003; Ord. No. 1795 §1, 10-5-2004; Ord. No. 1821 §1, 3-1-2005; Ord. No. 2021 §1, 1-2-2008; Ord. No. 2225 §1, 7-3-2012]

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section. Words used in the present tense shall include the future; the singular number includes the plural and the plural includes the singular; the word "shall" is mandatory and not permissive.

ABUTTING — Having a common border with, or being separated from such a common border by a right-of-way, alley or easement.

ACCESSORY BUILDING — Any building the use of which is incidental to the principal use of the parcel or structure thereon.

ACCESSORY STRUCTURE — Any structure the use of which is incidental to the principal use of the parcel or structure thereon.

ACCESSORY USE — Any use incidental to or directly associated with the principal use of the premises.

ADJOINING LOT — A lot that shares all or part of a common point or line with another lot.

ALLEY — A minor right-of-way which may provide vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

ALTER — A physical change or an addition. The term *"alter"* includes renovation, modification, rehabilitation or restoration.

ASSISTED LIVING FACILITIES — Establishments primarily engaged in providing residential and personal care services without on-site nursing care for the elderly or other persons who are unable to fully care for themselves. The care typically includes room, board, supervision, and assistance in daily living, such as housekeeping services.

BASEMENT — A floored and walled substructure of a building at least fifty percent (50%) below the average finished grade of the building.

BED AND BREAKFAST ESTABLISHMENT — A dwelling or building in a residential district which is smaller than a hotel or motel in which lodging and/or meals are provided to the public on a transient basis for compensation; such establishment may also operate a full-service restaurant, not including drive-in, drive-thru or curb service, within said dwelling or building.

BOARDING HOUSE — A building other than a hotel where, for compensation, meals, or lodging and meals, are provided for a minimum of three (3) but not more than ten (10) persons.

BUFFER YARD — An area that contains extensive landscape material and/or a decorative wall or similar material designed to screen from view a particular land use or activity.

BUILDING — A roofed structure that is affixed to the land and is designed or intended for use as a shelter for persons, animals and/or property.

BUILDING, HEIGHT OF — The vertical distance measured from the average elevation of the finished grade along the front of the building to the highest point of the roof surface, if a flat roof; to the deck line of mansard roofs; and to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

CAMPGROUND — A place designed to accommodate travelers or persons seeking overnight accommodations via use of tents, camper trailers or recreational vehicles.

CARPORT — An accessory building that may or may not be attached to a principal building, that provides space for the parking or storage of one (1) or more motor vehicles, and, if enclosed, is enclosed on not more than three (3) sides.

CHILD CARE CENTER — A facility which regularly provides day care for less than twenty-four (24) hours per day for four (4) or more children not related to the operator. A child care center shall include the terms "day care center", "part day child care facility", and "day care home" as defined by Chapter 225, Act 10, Section 2 of the Missouri Revised Statutes.

CHURCH OR PLACE OF WORSHIP — A building or set of buildings used for the purpose of worship and customarily related activities.

CLINIC — The group practice of medicine or dentistry for humans, but not including in-patient care or operating rooms for major surgery.

COMMON LAND — That land set aside for open space or recreational use for the owners of the residential lots in a subdivision which land is conveyed by the developer in fee simple absolute title by a warranty deed to trustees whose trust indenture shall provide that such common land be used for the sole benefit, use and enjoyment of the lot owners present and future; no lot owner shall have the right to convey his/her interest in the common land except as an incident of the ownership of a regularly platted lot.

CONDOMINIUM — A multi-unit dwelling, with unit owners each enjoying exclusive ownership of his/her individual apartment or unit, holding a fee simple title thereto, while retaining an undivided interest, as a tenant in common, in the common facilities and areas of the building and grounds which are used by all the residents; as developed under the requirements of Chapter 448 of the Revised Statutes of Missouri.

DAY CARE HOME — A family home occupied by the day care provider in which care is given to four (4) people or less, not related to the day care provider, for any part of the twenty-four (24) hour day.

DAY NURSERY — A group program providing care for more than four (4) people in a facility, other than a family home, for any part of the twenty-four (24) hour day.

DEVELOPMENT — A project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure; or any use or extension of land; any of which has the effect of increasing the requirements for capital improvements, and which requires either the approval of a plat pursuant to the City's subdivision regulations, the issuance of a building permit, or connection to the City's wastewater sewer system.

DISTRICT — A section or sections of the City for which the regulations governing the height, area and use of the buildings and premises are the same.

DUPLEX — A residential building divided into two (2) dwelling units.

DWELLING, MULTIPLE — A building or portion thereof designed for or occupied by more than two (2) families.

DWELLING, SINGLE-FAMILY — See "dwelling, single-family detached."

DWELLING, SINGLE-FAMILY ATTACHED — A dwelling which is designed for or occupied exclusively by one (1) family, but having a common party wall with another single-family dwelling with each dwelling on a separate lot of individual ownership.

DWELLING, SINGLE-FAMILY DETACHED — A building which is designed for or occupied exclusively by one (1) family and is separate from any other building except accessory buildings.

DWELLING, TWO-FAMILY — A building designed for or occupied exclusively by two (2) families.

DWELLING UNIT — One or more rooms with direct access to the outside or to a public hallway located in a residential building or residential portion of a building which are arranged, designed, used or intended for use as a complete, independent living facility for no more than one (1) family and which includes permanent provisions for living, sleeping, eating, cooking and sanitation.

FAMILY — One (1) or more persons, related or unrelated, living together as a single integrated household unit, or a non-profit group of persons who live together sharing household responsibilities and daily activities, who also share a close social, economic and psychological commitment to each other. A family does not include large living groups such as dormitories, fraternities, sororities or lodging houses. There shall be at least one hundred fifty (150) square feet of floor space for the first (1st) occupant, and one hundred (100) square feet of floor space for each additional occupant. Floor space is calculated using the total enclosed area of the dwelling unit. A family may not have more than one (1) registered sex offender residing in a dwelling unit.

FARM — An area which is used for the growing of the usual farm products such as vegetables, fruit, trees and grain, and for their parking or storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine, subject to distance limitations from residential property and not including the commercial feeding of garbage or offal to swine or other animals, such as mice, rats, rabbits, etc. The term "farm" also includes dairy farms.

FLOODPLAIN — The floodway and floodway fringe area of the Meramec River and its tributaries and other natural waterways which have a one percent (1%) chance of flooding in any given year as determined by the 1977 U.S. Army Corps of Engineers Study, as may be amended.

FOOTPRINT — The land area covered by a building or structure.

FRONTAGE — The edge of a lot bordering a street.

FRONTAGE, LOT — See "lot, frontage."

GARAGE OR CARPORT, PORTABLE — A structure intended for the shelter or storage of self-propelled vehicles which is comprised of a self-supporting assemblage of material and is not permanently attached to a footing and foundation in compliance with City Building Codes. The Building Commissioner shall make a determination as to if a proposed structure is subject to this definition and any regulations relating thereto.

GARAGE, PRIVATE — An accessory building with capacity for not more than four (4) self-propelled vehicles for storage only; provided, that a private garage may exceed a four (4) vehicle capacity if the lot whereon such garage is located contains not less than two thousand (2,000) square feet for each vehicle stored, and that the self-propelled vehicles shall not include commercial contractors' equipment, gasoline trucks and similar vehicles not ordinarily used incidental to domestic activities.

GARAGE, PUBLIC — Any building or premises, except those used as a private or storage garage, used for equipping, repairing, hiring, selling or storing motor-driven vehicles for profit.

GARAGE, STORAGE — Any building or premises, used for housing only, of motor-driven vehicles pursuant to previous arrangements, and not to transients, at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired, hired or sold.

GOLF COURSE — An area or course for playing golf, except miniature golf, consisting of at least nine (9) holes within which the playing area is not artificially illuminated.

GRADE — The finished ground level of a site.

GROUP HOME — A building with an exterior appearance similar to a single-family residence which houses eight (8) or fewer unrelated mentally or physically handicapped persons and may include two (2) additional persons acting as house-parents or guardians, but does not include a half-way house.

HOME OCCUPATION — An activity carried on by no more than two (2) members of a family residing on the premises, but excluding auto repair shops, beauty shops, barbershops, nursing homes, massage and other establishments offering services to the general public, except as provided herein and providing that there are no signs nor any display that will indicate from the exterior of the building that it is being utilized, in whole or in part, for any purpose other than that of a dwelling; providing also that there is no stock in trade or commodity sold upon the premises and no mechanical equipment is used except such as is customary for purely domestic or household purposes. An instructor in singing, violin, piano or other individual musical instrument, limited to two (2) pupils at a time, who offers such skilled services to clients and is not professionally engaged in the purchase or sale of economic goods shall be considered a permitted home occupation. The keeping of not more than two (2) roomers or boarders shall be considered a permitted home occupation. Persons other than those residing on the premises may be employed by the authorized operator of a home occupation, provided that said persons do not engage in any home occupation-related activities or park their vehicles at the subject premises. All persons desirous of operating a home occupation must apply for and receive a business license prior to the operation of same. At the time of business license application, the applicant must execute an agreement acknowledging that they have read, understood and agree to comply with all home occupation provisions. Any premises utilized for a home occupation is subject to inspection by the City to ensure initial and continued compliance with all home occupation provisions.

HOTEL — A building in which lodging or lodging and meals is provided to the public on a transient basis for compensation, and which will accommodate more than ten (10) persons for lodging; provided, that all rooms shall be accessible through the main entrance of the building, and a lobby provided for the mutual use and benefit of all occupants.

JUNK YARD — The use of more than two hundred (200) square feet of the area of any lot, whether inside or outside a building, or the use of any portion of that half of any lot that adjoins any street, for the storage, keeping or abandonment of junk including scrap metal or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery, or parts thereof.

KENNEL — The use of land or buildings for the purpose of selling, breeding, boarding or training dogs or cats or both, or the keeping of four (4) or more dogs over four (4) months of age, or keeping six (6) or more cats over four (4) months of age, or the keeping of more than five (5) dogs and cats. The word *"selling"* as herein used shall not be construed to include the sale of animals four (4) months of age or younger which are the natural increase of animals kept by persons not operating a kennel as herein defined; nor shall selling be determined to include isolated sales of animals over four (4) months old by persons not operating a kennel as herein defined.

LIFE CARE FACILITY — A place or places in which a provider undertakes to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, for a term in excess of one (1) year or for life pursuant to a life care contract. The term also means a place or places in which a provider undertakes to provide such services to a non-resident.

LOT — An individual parcel of land.

LOT, CORNER — A lot situated at the junction of two (2) or more streets or places.

LOT, DEPTH OF — The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE — A lot having a frontage of two (2) non-intersecting streets, as distinguished from a corner lot.

LOT, INTERIOR — A lot bounded by a street on only one (1) side.

LOT, FRONTAGE

(1) On lots which are not located on curved streets, the minimum lot frontage shall be measured at the right-of-way line.

(2) On lots which are located on the outside of a curved street or on a cul-de-sac, the minimum lot frontage shall be measured at a line tangent to the curve, centered on the lot at the front building line.

(3) On lots which are located on the inside of a curved street, the minimum lot frontage shall be measured as the chord dimension for an arc having a radius of fifty (50) feet less than the radius of the building line.

LOT LINES — The lines bounding a lot as defined herein.

LOT OF RECORD — A lot which is part of a subdivision, the plat of which has been recorded in the office of the St. Louis County Recorder of Deeds, or a parcel of land described by metes and bounds, which has been recorded in the office of the St. Louis County Recorder of Deeds.

MOBILE HOME TRAILER COACH PARK — A development where trailers are located which are used for dwelling purposes.

MOTEL — A building or group of buildings in which lodging or lodging and meals is provided to the public on a transient basis for compensation.

NON-CONFORMING USE OR STRUCTURE — Any use or structure which existed lawfully on the date this Zoning Ordinance or any amendment thereto became effective and which fails to conform to one (1) or more of the applicable regulations of the Zoning Ordinance or such amendments thereto.

NURSING HOME — An establishment which provides full-time domiciliary, convalescent or chronic care for individuals who, by reason of chronic illness, infirmity or age, are unable to care for themselves.

NURSERY SCHOOL — A pre-kindergarten school for children, primarily between three (3) and five (5) years of age.

OUTDOOR DISPLAY AREAS — Includes any area where selected samples of inventory being displayed for sale are in public view.

OUTDOOR STORAGE AREAS — Includes any area where items such as vehicles, equipment, business inventory or supplies are stored either permanently or temporarily.

PARK — An area open to the general public and reserved for recreational, educational or scenic purposes.

PARKWAY — A road or roadway intended to be used primarily for passenger vehicles and developed with a park-like or scenic character, with recreational uses.

PARKING SPACE — A durable, dust-proof, surfaced area, enclosed in the main building, in an accessory building or unenclosed, sufficient in size to store one (1) standing motor vehicle, including the necessary driveway and space between motor vehicles on the parking lots. The driveways connecting a parking space with a street or alley shall provide satisfactory ingress and egress of motor vehicles and shall be designed to prevent all possible traffic and fire hazards. All such areas shall be paved with an asphaltic concrete or Portland cement concrete and shall have appropriate curb stops as required by the City.

PERMITTED USE — A use allowed by right in a zoning district and subject to the restrictions applicable to that zoning district.

PLACES OF WORSHIP — See "church or place of worship."

PLANT NURSERY — A farm, garden or other cultivated land together with accessory structures designed and intended to be used only for the cultivation and sale of live vegetation.

PORCH — A place or area adjacent to the main structure, and shall include any porch, patio, walkway or deck. An unenclosed or uncovered front porch may extend up to ten (10) feet into the minimum front yard. An enclosed or covered front porch must conform with the front yard requirements of the main structure.

PRIVATE — Restricted to a selected individual or group; not public in nature.

PRIVATE CLUB — An association of persons, whether incorporated or unincorporated, organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise; provided,

that the activities of such association shall not be in violation of any Federal, State, County or municipal laws in effect.

PUBLIC — Open to common or general use by the public on an unrestricted basis.

PUBLIC CAMPGROUND — An area containing one (1) or more structures and/or used for the parking of one (1) or more tents, trailers or recreational vehicles designed or intended to be used for temporary living facilities for one (1) or more families and intended primarily for automobile transients or other tourists, on a limited basis for not more than fifteen (15) days.

PUBLIC UTILITY FACILITY, LOCAL — A public utility facility serving a local area only, such as an electric substation or a water or gas pumping or regulating station or a telephone switching center.

RETREAT — A building or group of buildings with designated open areas utilized and maintained for educational and religious conclaves, seminars and similar activities by particular educational, religious, fraternal or other groups.

RIGHT-OF-WAY LINE — A dividing line between a lot, tract or parcel of land and a contiguous street (formerly Street Line).

SANITARY LANDFILL — A type of operation in which refuse or earth or other suitable cover material is deposited in alternate layers of specified depth in accordance with a definite plan on a specified portion of open land, with each layer being compacted by force applied by mechanical equipment.

SCHOOL — An institution which offers instruction of any of the branches of learning and study as taught in the public schools in conformity with the Revised Statutes of Missouri, rules and regulations, including pre-kindergarten, kindergarten, elementary, junior and senior high school and parochial schools having similar curricula, accredited universities, accredited colleges and accredited junior colleges, but excluding commercial private pre-kindergarten, trade, nursery, business or commercial schools.

SCREENING — A method of visually shielding or obscuring one (1) abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

SEMI-FINISHED MATERIAL — Material which has gone through one (1) or more stages of processing.

SERVICE STATION — Any structure or premises used for dispensing or retail sale of automotive vehicle fuels or lubricants, including lubrication of automobiles and replacement or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair or spray painting.

STABLE, PRIVATE — A detached building accessory to a residential use for the keeping of not more than two (2) horses owned by the occupants of the premises; provided, that the capacity of the stable may be increased if the premises whereon such stable is located contains an area of not less than one (1) acre for each additional horse accommodated. The boarding, hiring, selling or training of horses for any commercial purpose shall not be allowed.

STABLE, RIDING — A building and designated site intended or used exclusively as a shelter for horses which provides for the boarding, hire, sale or training of such horses.

STORY — That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF — A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet (3) above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use.

STREET — A public or private right-of-way which provides access to abutting properties.

STRUCTURAL ALTERATIONS — Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof or exterior walls.

STRUCTURE — Any assemblage of material forming a construction for occupancy or use, excepting underground distribution or collection pipes or cables and underground or ground level appurtenances thereto.

SUMMER DAY CAMP — A program providing adult supervised indoor and outdoor activities for up to thirty (30) children from ages five (5) through twelve (12), on weekdays from 9:00 A.M. through 3:00 P.M. during the months of May through August. Specific conditions associated with the operation of summer day camps including activities, structures, setbacks and performance standards may be imposed in connection with site specific consideration given to same.

TRAILER — Any structure used or capable of being used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, and which is, has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place whether by motive power or other means. The term trailer shall include camp car and house car. A permanent foundation shall not change its character if the structure can be removed therefrom practically intact.

TERMINAL — A depot building or area specifically designated for the storage or transfer of persons or materials, or temporary storage and service of operable vehicles used in the transport of persons, goods or materials.

USE — Any functional, social or technological activity which is imposed or applied to land or to structures on the land.

WAREHOUSE — A structure for use as an interior storage place for goods, material or merchandise.

YARD — An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the

depth of the front yard or the depth of the rear yard, the mean horizontal distance between the lot line and the main building shall be used.

YARD, FRONT — The minimum horizontal distance from the street right-of-way to any portion of the main building, excluding roof overhang. Corner lots shall be considered to have a front yard along both street frontages.

YARD, REAR — The minimum horizontal distance from any portion of the main building foundation to the rear lot line. On both corner lots and interior lots, the rear yard shall be at the opposite end of the lot from the front yard. The location shall be determined by the location of the main entrance to the lot.

YARD, SIDE — The minimum horizontal distance from any portion of the main building foundation to the side lot line on interior lots.

ZONING COMMISSION — The Zoning Commission of the City, including references to the Planning and Zoning Commission, Planning and Zoning Board or the Zoning Board.

Section 23-13. Establishment of Districts. [Ord. No. 646 §2; Ord. No. 1511, 2-20-2001; Ord. No. 1633 §2, 9-17-2002]

For the purpose of this Chapter, the City is divided into the following zoning districts:

District Classification	Code Designation
Floodplain	FP
Single-Family Residence (One acre)	1-A
Single-Family Residence (20,000 square feet)	R-1
Single-Family (15,000 square feet)	R-2
Single-Family Residence (10,000 square feet)	R-3
Single-Family Residence (7,500 square feet)	R-4
Two-Family Attached Residential District	R-5A
Mixed Single-Family Residential District	R-5B
Multiple-Family Residential District	R-5C
Large Lot Residential District	LLRD
Commercial District	C
Planned Commercial District	PC
Light Industrial District	M-1
Heavy Industrial District	M-2
Planned Industrial District	PI
St. Louis County Floodplain Non-Urban District	SLC-FPNU
St. Louis County Non-Urban District	SLC-NU

Overlay Districts

Community Unit Plan CUP

Section 23-14. Zoning District Map. [Ord. No. 646 §2]

The boundaries of the zoning districts are indicated upon the zoning district map of the city, which map is made a part of this chapter. The zoning district map of the city, and all the notations, references and other matters shown thereon, shall be as much a part of this chapter as if the notations, references and other matters set forth by the map were all fully described herein; such zoning district map is attested and is on file in the office of the city clerk.

Section 23-15. Zoning of Annexed Territory. [Ord. No. 646 §2]

All territory which may be annexed to the city shall automatically be classed as having the same land use, area, height, yard and intensity of use regulations as authorized by the St. Louis County zoning Ordinance in effect at the time the area is unincorporated until such classification shall have been changed by an amendment to this chapter, as provided by law.

Section 23-16. Classification of Areas Under Water. [Ord. No. 646 §2]

All areas within the boundaries of the city which are under water and not shown as included within any district shall be subject to all of the regulations of the district which immediately adjoins the water area. If the water area adjoins two or more districts the boundaries of each district shall be construed to extend into the water area in a straight line until they meet the other district.

Section 23-17. Classification of Vacated Streets and Alleys. [Ord. No. 646 §2]

Whenever any street, alley or other public way is vacated by official action of the board of aldermen or other public officials, the zoning districts adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.

Section 23-18. Compliance with Chapter. [Ord. No. 646 §2; Ord. No. 803 §1; Ord. No. 1633 §3, 9-17-2002; Ord. No. 1813 §1, 1-4-2005; Ord. No. 1978 §1, 6-19-2007]

Except as herein provided:

(a) No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than is permitted in the district in which such building or land is located.

(b) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit established for the district in which such building is located.

(c) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which such building is located.

(d) The minimum yards and open spaces, including lot area per family requirement, for each and every building existing on March 16, 1982, shall not be encroached upon or considered as yard or open space requirement for any other building.

(e) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one main building on one lot, except as provided in section 23-167.

(f) No land dedicated for roadway purposes, either in a public or a private street or place shall be used as a yard or as any part of the required lot area prescribed by this chapter.

(g) Off-street parking spaces shall be provided and maintained in accordance with the requirements of this chapter.

(h) The exceptions listed below in subsection (i) to the restrictions stated in subsections (a) and (c) of this Section may be permitted by the Board of Aldermen only when an application for one of the listed exceptions has been filed according to the procedures stated in Section 23-182 (b), and the Board of Aldermen has considered and made a factual determination as to each of the following:

(1) Character of the neighborhood.

(2) Traffic conditions.

(3) Public utility facilities.

(4) Fire hazards.

(5) General welfare of the community.

(6) The appropriateness and compatibility of the proposed use for the subject property.

(i) Possible exceptions to the restrictions stated in subsection (a) of this section are the following:

(1) Permitted uses for "C" Districts listed in Section 23-90 may be considered for location in "M-1" Districts and "M-2" Districts described in Article XI and Article XII of Chapter 23, respectively, but means of the special use permit process;

(2) Permitted uses for "M-1" Districts listed in Section 23-110 may be considered for location in "M-2" Districts described in Article XII of Chapter 23.

Section 23-19. Interpretation of Zoning District Boundaries and Interpretation of Chapter Generally. [Ord. No. 646 §2]

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning district map made a part of this chapter, the following rules shall apply:

(a) The district boundaries are the right-of-way center lines of either streets or alleys unless otherwise shown; and where the district designated on the map is bounded approximately by street or alley lines, the street or alley right-of-way center line shall be construed to be the boundary of such district.

(b) In the event that a zoning district boundary line is shown on a zoning district map as following a property line or a political boundary line, the actual location of such zoning district boundary line shall govern, as determined by survey, rather than the representation of the location of such boundary line on the district map, if there is a discrepancy between the two locations.

(c) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines; and where the districts designated on the zoning district map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of such district unless the boundaries are otherwise indicated on the map.

(d) In unsubdivided property, the district boundary lines on the zoning district map shall be determined by use of the scale appearing on the map.

(e) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this chapter shall govern.

ARTICLE II
"FP" Floodplain District Regulations

The "FP" Floodplain District encompasses the floodway and floodway fringes along the watercourse of the Meramec River and its tributary streams for which hydrographic study and calculation as determined by the U.S. Army Corps of Engineers (January, 1977) indicates a risk of life and property as a consequence of storm water run-off. The regulations of this district are supplemented and qualified by additional general regulations appearing elsewhere in this chapter.

Section 23-20. Permitted Land Uses and Developments. [Ord. No. 646 §2; Ord. No. 1488 §2, 10-17-2000]

(a) Public parks, parkways and scenic areas, not including accessory buildings.

(b) Golf courses, public and private picnic grounds and boat docks, not including accessory buildings.

(c) Underground public utility transmission and distribution lines and pipelines.

(d) Off-street parking areas for automobiles.

(e) Yard areas required for residence.

(f) Agricultural operations.

Section 23-21. Special Land Uses and Developments. [Ord. No. 646 §2; Ord. No. 1503 §1, 1-2-2001]

(a) Clean earth landfill, provided that the flood carrying capacity of the watercourse is not unduly affected.

(b) Railroad tracks and associated structures.

(c) Rifle ranges, skeet shooting clubs and other activities featuring the use of firearms when these activities are located at least one hundred (100) feet from the boundaries of the property.

(d) Extraction of raw materials from the earth and processing thereof, but not including the manufacturing of a product.

(e) Sewage treatment facilities.

(f) Public or private, not-for-profit or for profit parks, picnic grounds, golf courses, community centers, swimming pools, athletic fields or other recreational uses which include accessory buildings.

(g) Marinas.

(h) Above-ground public utility transmission and distribution lines and pipelines, including booster stations.

(i) Farm buildings, not including residences.

(j) Accessory buildings, land uses and activities customarily incidental to any of the above uses.

(k) Telecommunications facilities, subject to additional provisions contained in this Chapter.

Section 23-22. Compliance with Flood Damage Prevention Chapter. [Ord. No. 646 §2]

All construction, additions, alterations or remodeling of any type of structure or building of any type of use and location of mobile homes, mobile home parks or developments which are located within the designated floodway or floodway fringe, in either the "FP" Floodplain District or the Alternate Floodplain District shall be required to comply with the provisions of Chapter 10A, "Floodplain Management," of this Code. In the event that

a conflict arises between the provisions of this Chapter and Chapter 10A, the more restrictive of the two shall prevail and be complied with.

Section 23-23. Height Limitations. [Ord. No. 646 §2]

The height of any structure as defined in section 23-12 shall not exceed thirty-five (35) feet.

Section 23-24. Lot Area, Lot Dimension and Yard Requirements. [Ord. No. 646 §2; Ord. No. 1488 §3, 10-17-2000]

(a) Farm buildings, not including residences and accessory structures, shall be situated on tracts at least ten acres in area.

(b) No structure shall be erected within twenty-five (25) feet of any public roadway right-of-way line.

(c) Farm buildings and accessory buildings shall be set back at least one hundred (100) feet from all property lines.

Section 23-25. Off-Street Parking Requirements. [Ord. No. 646 §2]

All uses shall be required to provide for off-street parking in accordance with article XV of this chapter.

Section 23-26. Alternate Floodplain District Regulations. [Ord. No. 646 §2; Ord. No. 1488 §4, 10-17-2000]

In the floodway fringe of the "FP" Floodplain District, alternate zoning regulations shall apply under certain conditions as follows:

(a) *Generally.* For any lot or tract of land in the floodway fringe of the "FP" Floodplain District, an alternate district, which is designated on the zoning district maps and is the district designation following the letters "FP" on the maps, may be utilized if the particular property is placed in such condition, as required in this section, as to effectively, without increasing the flooding problems of other properties, remove the property from flooding, as determined by the U.S. Army Corps of Engineers study of January, 1977, as may be amended, and used as basic data for determining the extent of the Floodplain District. If the standards required by this section are satisfactorily met by the user of any lot or tract of land in the "FP" Floodplain District, such user may utilize the property for such uses and under such regulations as are contained in the district regulations of the district designated after the "FP" code designation as the alternate district for the particular property.

(b) *Flood Protection Plan.*

(1) In order to utilize the Alternate Floodplain District regulations, a property owner or user shall submit to the planning and zoning board a plan for adequate flood protection against the amount of water that would flow past the property in cubic feet per second, as determined by the above study used as

basic data for determining the extent of the Floodplain Districts. Such plan must be approved by the Planning and Zoning Board before the alternate Floodplain District regulations may be utilized.

(2) The plan must include a report by a registered professional engineer of demonstrated competence in hydrology as to the adequacy of the proposed plan for flood protection relative to the elevation of the floodplain and the flow as determined in the aforementioned flood elevation study, the effect of the proposed improvement on the flood problems of other properties and such other hydrologic problems as may result from the improvements.

(3) The Planning and Zoning Board may require such additional data or engineering studies from the applicant as may be necessary to determine the adequacy of the proposed plan for flood protection.

(4) The approval of the Planning and Zoning Board of such plans for flood protection does not constitute a representation, guarantee or warranty of any kind by the City or by any officer or employee thereof as to the practicality or safety of any protective measure and shall create no liability upon or cause action against such public body, officers or employees for any damage that may result pursuant thereto.

(c) *Non-conforming Buildings.* Any non-conforming building in the "FP" Floodplain District, the use of which is a permitted use in the alternate district which applies to the particular location, may be rebuilt, extended or enlarged for a purpose permitted in the Section for removing the property from the danger of flooding as determined by the flood elevation study and as basic data for determining the extent of the Floodplain District; provided, that the building or structure complies with Chapter 10A. "Floodplain Management" of this Code.

ARTICLE II-A
St. Louis County Floodplain Non-Urban

Section 23-27. Purpose and Intent. [Ord. No. 1511 §1, 2-20-2001]

(a) The flood hazard areas of St. Louis County, Missouri, are subject to periodic 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. These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities and by the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise protected from flood damages.

(b) This Section is therefore necessary to protect human life and health; to minimize expenditure of public money for costly flood control projects; to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; to minimize prolonged business interruptions; to

minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; and to help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas.

(c) It is the purpose of this Section to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood heights or velocities; to require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; to control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters; and to control filling, grading, dredging, and other development which may increase erosion or flood damage.

Section 23-27.1. Scope of Provisions. [Ord. No. 1511 §1, 2-20-2001]

(a) This Section contains the regulations for the "FP" Floodplain District of St. Louis County. Property zoned "FP" is also zoned under another applicable district governed by the St. Louis County zoning ordinance. The "FP" District constitutes an "overlay" district, and the other applicable zoning district constitutes the underlying zoning. This Section controls in the case of any conflict between the regulations contained in this Section and the regulations otherwise applicable to any property by virtue of its "underlying" zoning.

(b) All of the area within the "FP" District is the floodplain, as defined in this Chapter, and is subject to all of the provisions of this Section. A portion of the area within this district is designated as the floodway, as established by the maps applicable to this district. Property within the floodway is subject to those provisions of this Section which so state.

Section 23-27.2. Permitted Land Uses and Developments. [Ord. No. 1511 §1, 2-20-2001]

The following land uses and developments are permitted in this district:

(1) Boat docks for other than commercial or industrial use.

(2) Farming.

(3) Golf courses.

(4) Hunting, fishing, and propagation of wildlife.

(5) Local public utility facilities of one hundred thousand (100,000) cubic feet in volume or less, provided that any installation shall be:

(a) Adequately screened with landscaping, fencing or walls, or any combination thereof, or

(b) Placed underground, or

(c) Enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.

All plans for screening these facilities shall be submitted to the Department of Planning for review. No building permit or installation permit shall be issued until these plans have been approved by the Department of Planning.

(6) Public parks.

(7) Scenic areas.

(8) Swimming pools.

(9) Wildlife refuge.

(10) Portions of single-family lots when a contiguous area is provided for each lot which is either out of the floodplain or removed from flooding in accordance with Section 23-28.5 of this Article or both, provided that such contiguous area must provide the minimum lot area required by the applicable zoning district or special procedure permit or one (1) acre, whichever is less.

Section 23-27.3. Conditional Land Use and Development Permits Issued by the Commission. [Ord. No. 1511 §1, 2-20-2001]

The following land uses and developments may be permitted under conditions and requirements specified in Section 1003.181 Conditional Use Permits of the St. Louis County zoning ordinance:

(1) Airports, heliports and landing strips.

(2) Drive-in theaters.

(3) Extraction of raw materials from the earth and processing thereof, but not including manufacture of a product.

(4) Facilities for the composting of yard wastes.

(5) Local public utility facilities over one hundred thousand (100,000) cubic feet in volume.

(6) Outdoor rifle and archery ranges.

(7) Port and dock facilities.

(8) Public utility facilities.

(9) Railroad tracks and associated structures.

(10) Recreational uses such as athletic fields and picnic grounds.

Section 23-27.4. Conditional Land Use and Development, Based on Underlying Zoning, Issued by the Commission. [Ord. No. 1511 §1, 2-20-2001]

The following land uses and developments, if permitted or conditional uses in the underlying zoning district applicable to the property, may be authorized in this district under conditions and requirements specified in Section 1003.181 Conditional Use Permits of the St. Louis County zoning ordinance:

(1) Towed vehicle storage yards.

(2) Open storage, not including salvage yards or junk yards.

(3) Sewage treatment plants.

(4) Miniature golf courses and golf driving ranges.

Section 23-27.5. Accessory Land Uses and Developments. [Ord. No. 1511 §1, 2-20-2001]

Subject to compliance with the procedures of this Section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Accessory uses include the following:

(1) Devices for the generation of energy, such as solar panels, wind generators or similar devices.

(2) Individual sewage treatment facilities serving an individual non-residential use, as approved by the appropriate regulatory agency. The sewage treatment facilities shall not exceed five thousand (5,000) gallons per day flow.

Accessory uses in this district do not include residences.

Section 23-28. Performance Standards. [Ord. No. 1511 §1, 2-20-2001]

All uses in the "FP" Floodplain District shall operate in conformity with the appropriate performance standards contained in Section 1003.163 Zoning Performance Standard Regulations of the St. Louis County zoning ordinance.

Section 23-28.1. Height Limitations for Structures. [Ord. No. 1511 §1, 2-20-2001]

The total height of any structure shall not exceed that permitted in the underlying zoning district, except where the use of the property includes structures restricted in height by the requirements of a conditional use permit.

Section 23-28.2. Lot Area and Yard Requirements. [Ord. No. 1511 §1, 2-20-2001]

The minimum lot area and yard requirements for land uses in the "FP" Floodplain District shall be as set out below:

(1) *Minimum Lot Area Requirement.*

(a) The following permitted land uses shall be situated on tracts of land providing not less than the following areas:

Use	Minimum Area
Farming	20 acres
Golf courses	5 acres

(b) Permitted and conditional land uses shall be situated on tracts of not less than the minimum lot area required by the provisions of the underlying zoning district regulations.

(2) *General Yard Requirements.*

(a) *Front yard.* No structure shall be allowed within twenty-five (25) feet of any roadway right-of-way line.

(b) *Floodplain.* No residential building or structure attached thereto shall be allowed within twenty-five (25) feet of any area not removed from flooding in accordance with Section 23-28.5 of this Article.

(3) *Specific Yard Requirements And Exceptions.*

(a) Notwithstanding any other provision of this Chapter, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street pavement is allowed within the sight distance triangle.

(b) Permitted information signs, six (6) feet or less in height, are allowed within the minimum front yard setback.

(c) Permitted directional signs, three (3) feet or less in height, are allowed within the minimum front yard setback.

(d) Any structure, other than a public utility tower authorized by a conditional use permit, which exceeds thirty (30) feet in height shall be set back from all property lines at least one (1) additional foot for every foot of height above thirty (30) feet.

Section 23-28.3. Off-Street Parking and Loading Requirements. [Ord. No. 1511 §1, 2-20-2001]

Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 1003.165 Off-Street Parking and Loading Requirements of the St. Louis County zoning ordinance.

Section 23-28.4. Sign Regulations. [Ord. No. 1511 §1, 2-20-2001]

Sign regulations are set forth in Section 1003.168 Sign Regulations of the St. Louis County zoning ordinance.

Section 23-28.5. Use and Development of Floodway. [Ord. No. 1511 §1, 2-20-2001]

All development or use of the floodway is prohibited involving any encroachment, including fill, new construction or material improvement of any existing structure unless certification by a registered professional engineer is provided to and approved by the Department of Highways and Traffic that the development will not result in any increase in flood levels during occurrence of the base flood discharge. If and only if this Section is complied with, use or development of the floodway may be carried out subject to the restrictions of the remainder of this Article.

Section 23-28.6. Use and Development Under Underlying District Regulations. [Ord. No. 1511 §1, 2-20-2001]

Property in this district may be used and developed in accordance with the regulations of the underlying zoning upon compliance with the following procedure:

(1) The property is placed in such conditions as to effectively and without increasing the flooding problems of other properties, remove the property from flooding based on the flood elevation study approved by the United States Federal Emergency Management Agency ("FEMA") and used as basic data for determining the boundaries of the Flood Hazard Boundary Map, being the "FP" Floodplain District as governed by this Section. Effective removal of the property from flooding requires provision of adequate freeboard as determined by the Department of Highways and Traffic in light of the reasonably anticipated ultimate development of the watershed. If the standards required by this Subsection are satisfactorily met in respect to any lot or tract of land in the "FP" Floodplain District, the property may then be used for such uses and under such regulations as are contained in the district regulations of the district designated after the "FP" code designation as the underlying district for the particular property.

(2)

(a) The property owner or user shall submit to the Department of Highways and Traffic a plan for flood protection. The plan shall be approved if its implementation would adequately protect against the amount of water that would flow past the property in cubic feet per second during the base flood, as determined by the flood elevation study approved by FEMA and used as basic data for determining the boundaries of the Flood Insurance Rate Map and the Flood Hazard Boundary Map, and if the plan further demonstrates that its implementation will not increase the flooding problems of other properties. With respect to any stream for which a floodway has not been designated, except the Mississippi River, the flooding problems of other properties will be deemed increased if implementation of the plan would decrease the water storage or conveyance capacity of the stream.

(b) The plan must include a report by a registered professional engineer of demonstrated competence in hydrology as to the adequacy of the proposed plan for flood protection relative to the elevation of the floodplain and the flow as determined in the flood elevation study approved by FEMA, the effect

of the proposed improvement on the flood problems of other properties, and such other hydrologic problems as may result from the improvements. Where the plan only delineates the floodplain elevation on the ground and no change or construction is proposed involving land below the floodplain elevation, the plan may be submitted under the seal of a registered land surveyor.

(c) The Department of Highways and Traffic may require such additional data or engineering studies from the applicant as may be necessary to determine the adequacy of the proposed plan for flood protection.

Section 23-28.7. Use and Development in the "FP" Floodplain District. [Ord. No. 1511 §1, 2-20-2001]

No use or development in this district shall increase the flooding problems of other properties. Prior to any use or development of property pursuant to the permitted or conditional uses designated in this district, if such use or development involves manmade change to real property below the flood elevation, including construction or erection of any building or structure, or any filling, grading, paving, mining, dredging, excavation or drilling, the following procedure shall be complied with:

(1) The property owner or user shall submit to the Department of Highways and Traffic a development plan. The plan shall be approved if it demonstrates that its implementation will not increase the flooding problems of other properties. With respect to any stream for which a floodway has not been designated, the flooding problems of other properties will be deemed increased if implementation of the plan would decrease the water storage or conveyance capacity of the stream.

(2) The plan shall include a report by a registered professional engineer of demonstrated competence in hydrology as to the adequacy of the proposed plan to avoid flooding problems of other properties and such other hydrologic problems as may result from the improvements. Where the plan only delineates the floodplain elevation on the ground and no change or construction is proposed involving land below the floodplain elevation, the plan may be submitted under the seal of a registered land surveyor.

(3) The Department of Highways and Traffic may require such additional data or engineering studies from the applicant as may be necessary to determine the adequacy of the proposed plan.

Section 23-28.8. Effect of Plan Approval. [Ord. No. 1511 §1, 2-20-2001]

(a) The approval by the Department of Highways and Traffic of such plans for flood protection does not constitute a representation, guarantee or warranty of any kind by St. Louis County, the Department of Highways and Traffic, the St. Louis County Planning Commission or by any officer or employee of either as to the practicality or safety of any protective measure and shall create no liability upon or cause of action against such public body, officers or employees for any damage that may result pursuant thereto.

(b) Approval of the plan by the Department of Highways and Traffic does not relieve an owner or user from fulfilling the requirements set forth in any other County ordinance regarding construction or development within the floodplain.

ARTICLE II-B
St. Louis County Non-Urban District

Section 23-29. Scope of Provisions. [Ord. No. 1511 §1, 2-20-2001]

This Section contains the district regulations of the "NU" Non-Urban District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Chapter which are incorporated as part of this Section by reference. The "NU" Non-Urban District of St. Louis County encompasses areas within which rough natural topography, geological conditions, or location in relation to urbanized areas creates practical difficulties in providing and maintaining public roads, and public or private utility services and facilities. The "NU" Non-Urban District also encompasses areas where specific potential development patterns have not been identified or where significant non-urban uses have been established.

Section 23-29.1. Permitted Land Uses and Developments. [Ord. No. 1511 §1, 2-20-2001]

The following land uses and developments are permitted in this district:

(1) Churches.

(2) Commercial vegetable and flower gardening, as well as plant nurseries and greenhouses, but not including any structure used as a salesroom.

(3) Dairy farming.

(4) Day care homes licensed under Chapter 819 of Title VIII SLCRO 1974, as amended.

(5) Dwelling, single-family.

(6) Dwelling, single-family earth sheltered.

(7) Farming, including the cultivation and sale of any plant crops and domestic animals.

(8) Forests, wildlife reservations, as well as conservation projects.

(9) Golf courses, including practice driving tees on the same premises. Miniature golf courses and independent practice driving tees are excluded.

(10) Home occupations.

(11) Hunting and fishing as well as propagation of wildlife of any kind.

(12) Libraries, public or private not-for-profit.

(13) Local public utility facilities sixty (60) feet or less in height or one hundred thousand (100,000) cubic feet in volume or less, provided that any installation, other than poles and equipment attached to the poles, shall be:

(a) Adequately screened with landscaping, fencing, or walls, or any combination thereof, or

(b) Placed underground, or

(c) Enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.

All plans for screening these facilities shall be submitted to the Department of Planning for review. No building permit or installation permit shall be issued until these plans have been approved by the Department of Planning.

(14) Mausoleums or crematoriums in an existing cemetery, any other provision of the law notwithstanding, but no such structure shall be situated closer than one hundred (100) feet to any cemetery property line.

(15) Parks, parkways, and playgrounds, public or private not-for-profit.

(16) Schools, public or private kindergarten, secondary, and collegiate.

(17) Schools, public or private elementary, on a tract of land of at least five (5) acres.

(18) Telecommunication towers of forty (40) feet or less in height and co-used telecommunication towers or disguised support structures of sixty (60) feet or less in height.

Section 23-29.2. Conditional Land Use and Development Permits Issued by the Commission. [Ord. No. 1511 §1, 2-20-2001]

The following land uses and developments may be permitted under conditions and requirements specified in Section 1003.181 Conditional Use Permits of the St. Louis County zoning ordinance:

(1) Administrative offices and educational facilities for religious purposes.

(2) Advertising signs, where not in conflict with State and Federal regulations.

(3) Airports and landing strips.

(4) Blacksmiths.

(5) Cemeteries, including mortuaries operated in conjunction with the cemetery.

(6) Child care centers, nursery schools, and day nurseries.

(7) Clubs, private not-for-profit.

(8) Correctional institutions.

(9) Extraction of raw materials from the earth and the processing of these raw materials, but not including the manufacturing of a product.

(10) Facilities for the composting of yard wastes.

(11) Fairgrounds.

(12) Feed or grain storage, commercial or cooperative.

(13) Foster homes for handicapped children.

(14) Golf courses which are illuminated and practice driving tees.

(15) Group homes for the developmentally disabled, to be occupied by no more than nine (9) individuals (excluding supervisory personnel) not related by blood or marriage to the operator or operators of the facility.

(16) Group homes for the elderly.

(17) Hospitals and hospices.

(18) House-trailer park or camp and associated community facilities.

(19) Local public utility facilities over sixty (60) feet in height or over one hundred thousand (100,000) cubic feet in volume.

(20) Logging operations, sawmills, and mill storage of lumber, but not including any fabrication of timber structures.

(21) Mulching plants for trees, wood, or wood waste, but not including any assembly or manufacture of a product.

(22) Nursing homes, but not including self-care units.

(23) Police and fire stations.

(24) Public utility facilities.

(25) Recreational camps and camping facilities.

(26) Recreational land uses, commercial or not-for-profit.

(27) Retreats owned and operated by religious, educational, or other not-for-profit establishments and religious convents.

(28) Riding stables, kennels, and veterinary clinics.

(29) Rifle ranges, skeet shooting clubs, and other activities featuring the use of firearms when all parts of these activities are located at least one hundred (100) feet from the boundaries of the property involved.

(30) Salesrooms, when established as an accessory use to commercial gardens, plant nurseries, and greenhouses, for the sale of nursery products and related items for use in preserving the life and health of such products, hand tools, and plant containers. The preceding items shall not include power-driven equipment, lawn

and garden furniture nor decorative accessories, fencing, nor bulk sale of sand, gravel, mulch, railroad ties or similar materials. The salesroom may occupy all or a portion of a building.

(31) Sanitary landfills and incinerators.

(32) Schools, public or private elementary, on a tract of land of at least three (3) acres but less than five (5) acres.

(33) Sewage treatment facilities, other than facilities permitted as an accessory use.

(34) Specialized private schools.

(35) Stadiums and sports arenas.

(36) Telecommunication towers up to two hundred (200) feet in height.

Section 23-29.3. Accessory Land Uses and Developments. [Ord. No. 1511 §1, 2-20-2001]

Subject to compliance with the procedures of this Section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use in customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Accessory uses include the following:

(1) Devices for the generation of energy, such as solar panels, wind generators, and similar devices.

(2) Individual sewage treatment facilities serving an individual dwelling, farm, or non-residential use, as approved by the appropriate regulatory agency. The sewage treatment facilities shall not exceed five thousand (5,000) gallons per day flow.

(3) Private stables.

(4) Signs (business, directional and information).

Section 23-29.4. Performance Standards. [Ord. No. 1511 §1, 2-20-2001]

All uses in the "NU" Non-Urban District shall operate in conformity with the appropriate performance standards contained in Section 1003.163 Zoning Performance Standard Regulations of the St. Louis County zoning ordinance.

Section 23-29.5. Height Limitations for Structures. [Ord. No. 1511 §1, 2-20-2001]

The total height of any structure shall not exceed that permitted in Section 1003.161 Air Navigation Space Regulations of the St. Louis County zoning ordinance.

Section 23-29.6. Lot Area and Yard Requirements. [Ord. No. 1511 §1, 2-20-2001]

The minimum lot area and yard requirements for land uses and developments in the "NU" Non-Urban District shall be as set out below:

(1) *Minimum Lot Area Requirements.*

(a) The following permitted and conditional land uses shall be situated on tracts of land providing not less than the following areas:

Use	**Minimum Area**
Advertising signs	3 acres
Administrative offices and educational facilities — religious	4 acres
Child care center	3 acres
Church	3 acres
Dwelling, single-family	3 acres
Dwelling, single-family, earth sheltered	3 acres
Group homes for the developmentally disabled	3 acres
Group homes for the elderly	3 acres
House-trailer parks or camps, including community center	20 acres with an average of at least 4000 sq. ft. per unit
Local public utility facilities and telecommunication towers	10,000 sq. ft.
Mechanical sewage treatment facility	3 acres
Schools	
nursery or day nursery	1 acre
kindergarten (separate)	3 acres
elementary (permitted use)	5 acres
elementary (conditional use)	3 acres
junior high	10 acres
senior high	20 acres
collegiate	10 acres

(b) Any lot or tract of record on the effective date of this Article (February 20, 2001), which contains less than three (3) acres, may be used as a site for one (1) single-family dwelling together with customary accessory structures and uses.

(c) Specialized private schools shall be located on a tract of land containing one (1) acre for each fifteen (15) pupils, but in no case less than five (5) acres, nor more than that required by the school land area requirements, as listed in Section 23-29.6(1)(a).

(d) Mechanical sewage treatment facilities may be located on tracts of land less than three (3) acres in area where the facility is located on platted common land within a subdivision. The minimum lot area, however, shall in no case be less than ten thousand (10,000) square feet.

(e) Police and fire stations as approved by the Planning Commission via a conditional use permit may be established on tracts of less than five (5) acres where the related parking needs, outdoor facilities, and size of buildings are deemed consistent with the intensity of land use in the neighborhood of these uses.

(f) All other permitted or conditional land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area.

(2) *Creation Of New Lots.* No new lots shall be created of less than three (3) acres in area except for fire stations, Police stations, nurseries or day nurseries, and local public utility facilities. Lots of less than three (3) acres in area, created for the above uses, shall not be used for any other use. In the event the permitted use terminates, the lot shall be established as common ground for an adjacent development or combined with an adjacent parcel or parcels by means of a boundary adjustment. Prior to the approval of a subdivision record plat creating a lot of less than three (3) acres, a deed or other legal instrument must be approved by the County Counselor and recorded with the St. Louis County Recorder of Deeds, which guarantees the required transfer of the property in the event the permitted use is terminated.

(3) *Minimum Yard Requirements — General.*

(a) *Front yard.* No structure shall be allowed within fifty (50) feet of any roadway right-of-way line.

(b) *Side and rear yard.* No structure shall be allowed within twenty (20) feet of any property line other than a roadway right-of-way line.

(4) *Specific Yard Requirements And Exceptions.*

(a) Notwithstanding any other provisions of this Chapter, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street pavement is allowed within the sight distance triangle.

(b) Boundary walls or fences, six (6) feet or less in height, are allowed within the minimum yard requirements.

(c) Permitted information signs, six (6) feet or less in height, are allowed within the minimum front yard setback.

(d) Permitted directional signs, three (3) feet or less in height, are allowed within the minimum front yard setback or sight distance triangle.

(e) A permitted freestanding business sign may be located no closer than twenty-five (25) feet from any roadway right-of-way line.

(f) Light standards for street lighting or at points of ingress and egress, but not including parking lot lighting, are allowed within the minimum front yard setback when approved by the Department of Planning. Light standards for parking lot lighting are allowed no closer than ten (10) feet of any side or rear yard line which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic or any "R" Residence District.

(g) In the event that greater that fifty percent (50%) of the existing dwelling structures on the same side of a street and in both directions from a lot, for a distance of five hundred (500) feet or to the nearest intersecting street, whichever distance is less, have a variation in front yard setbacks of no more than ten (10) feet, the required front yard for that lot shall be the average setback of those structures. However, in no case shall any building be located closer than fifteen (15) feet from any roadway right-of-way line, nor shall a setback of greater than seventy-five (75) feet be required.

(h) If a lot of record existing on the effective date of this Ordinance (February 20, 2001) has a width of one hundred (100) feet or less, the side yard on each side of any structure erected on such lot may be reduced to a width of not less than ten percent (10%) of the width of the lot, but in no instances shall such yard be less than five (5) feet in width.

(i) Any non-residential structure, other than a public utility tower authorized by a conditional use permit, which exceeds thirty (30) feet in height shall be set back from all property lines at least one (1) additional foot for every foot of height above thirty (30) feet.

(j) No private stable shall be allowed within one hundred (100) feet of any property line. Affiliated pasture areas shall be fenced.

(k) Notwithstanding any other provisions of this Chapter, telecommunication towers shall not be closer to a property line of "PS" Park and Scenic District, "NU" Non-Urban District or "R" Residence District property than a distance equivalent to the height of the proposed telecommunication tower. A greater setback may be required by the conditions of a conditional use permit.

(5) *Maximum Height And Minimum Yard Requirements For Nursing Homes.*

(a) No building within a nursing home development shall exceed a height of three (3) stories or forty-five (45) feet above the average ground elevation at the perimeter of the building, whichever is less.

(b) No building within a nursing home development shall be allowed within a minimum of fifty (50) feet of any property line.

Section 23-29.7. Off-Street Parking and Loading Requirements. [Ord. No. 1511 §1, 2-20-2001]

Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 1003.165 Off-Street Parking and Loading Requirements of the St. Louis County zoning ordinance.

Section 23-29.8. Sign Regulations. [Ord. No. 1511 §1, 2-20-2001]

Sign regulations are set forth in Section 1003.168 Sign Regulations of the St. Louis County zoning ordinance.

ARTICLE III
"1-A" One Acre Single-Family Residence District Regulations

The regulations of this district are supplemented and qualified by additional general regulations appearing elsewhere in this Chapter.

Section 23-30. Permitted Uses. [Ord. No. 1917 §§1 — 2, 6-6-2006]

(a) Single-family dwellings.

(b) Public and private not-for-profit parks, parkways and playgrounds.

(c) Golf courses, not including miniature courses or practice driving tees.

(d) Farms and truck gardens.

(e) Public or private elementary and secondary schools.

(f) Churches.

(g) Local public utility facilities.

(h) Day care homes.

(i) Accessory buildings, land uses and activities customarily incidental to above uses (b) through (g).

(j) Accessory buildings customarily incidental to single-family dwellings, limited to a maximum of two (2). Land uses and activities customarily incidental to single-family dwellings.

(k) Home occupations.

Section 23-31. Special Uses. [Ord. No. 1917 §§1 — 2, 6-6-2006]

(a) Sewage treatment plants.

(b) Temporary buildings for use incidental to residential construction.

(c) Cemeteries and mausoleums.

(d) Riding stables.

(e) Greenhouses and plant nurseries, not including any structure used for commercial purposes.

(f) Nursing homes.

(g) Not-for-profit private clubs and recreational land uses.

(h) Retreats owned and operated by religious, educational or other not-for-profit institutions.

(i) Hospitals.

(j) Libraries.

(k) Nursery schools and day nurseries.

(l) Fire stations.

(m) Private stables.

(n) Bed and breakfast establishments.

(o) State of Missouri regulated day care homes in which care is given to between five (5) and ten (10) people.

(p) Telecommunications facilities, subject to additional provisions contained in this Chapter.

Section 23-32. Height Limitations. [Ord. No. 1917 §§1 — 2, 6-6-2006]

(a) No residential structure shall exceed two and one-half (2½) stories or thirty-five (35) feet.

(b) Accessory structures to single-family dwellings shall not exceed one (1) story with gable roof to a maximum height of twelve (12) feet above ground floor elevation.

(c) Any non-residential structure may be erected to a height not exceeding seventy-five (75) feet when the front, side and rear yards are increased an additional two (2) feet for each foot exceeding thirty-five (35) feet in height; provided, that such exceptions shall not be permitted where they would conflict with any existing ordinances of the City or other governmental regulations regarding the height of structures surrounding airports, landing fields or landing strips.

Section 23-33. Lot Area, Lot Dimension and Yard Requirements. [Ord. No. 1917 §§1 — 2, 6-6-2006]

(a) Farm buildings shall be situated on tracts of land providing at least ten (10) acres of land area.

(b) Residences shall be situated on tracts of land providing at least one (1) acre of lot area for each residence; except, that any lot or tract of record on March 16, 1982, which contains less area may be used as a site for one (1) single-family residence

together with customary accessory structures and uses. No new lots shall be created of less than one (1) acre in area.

(c) Private stables and riding stables shall be situated on tracts of land providing at least three (3) acres of land use. No stable shall be located less than two hundred (200) feet from any dwelling on an adjoining lot or seventy-five (75) feet from the common property line, whichever is greater.

(d) Elementary schools shall be situated on tracts of land providing at least five (5) acres. Secondary schools shall be situated on tracts of land providing at least twenty (20) acres.

(e) Churches shall be situated on tracts of land providing at least three (3) acres.

(f) Fire stations, nursery schools and day nurseries shall be situated on tracts of land providing at least one-half (½) acre.

(g) Libraries shall be situated on tracts of land providing at least two (2) acres.

(h) All other permitted land uses in this district, except local public utility facilities, shall be situated or conducted on tracts of land at least five (5) acres in area, except as may be clearly indicated otherwise by the context of these regulations.

(i) Except as otherwise provided in this Section, all special land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area. However, the Board of Aldermen, when approving a special land use, may allow the establishment of such use on tracts of land less than five (5) acres where the developments and uses contemplated are deemed consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses of the district; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and are deemed essential or desirable to preserve and promote the public health, safety and general welfare of the City; provided however, that the minimum tract area for such special developments and uses shall not be less than one (1) acre.

(j) Every lot shall have a minimum frontage of one hundred twenty-five (125) feet.

(k) No structure shall be erected within forty (40) feet of any public roadway right-of-way line. However, farm buildings shall not be located within one hundred (100) feet of any property line.

(l) There shall be a rear yard having a depth of not less than thirty (30) feet, except as otherwise provided in this Chapter.

(l) On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet except as otherwise provided in this Chapter.

(l) Corner lots shall be considered to have a front yard along both street frontages.

(l) On lots having double frontage, the front yard shall be along the street providing the main entrance to the lot.

(m) Detached accessory structures to single-family dwellings shall not exceed a maximum of seven hundred (700) square feet in total floor area under roof for all such detached accessory structures.

(n) *Corner Lot Front Yard Detached Garages.* The Board of Aldermen may authorize a detached garage to be constructed and operated within the front yard of a corner lot on parcels a minimum of one-half (½) acre in size, subject to the following process: [Ord. No. 2283 §1, 12-17-2013; Ord. No. 2298 §§1,2, 5-6-2014]

(1) *Application.* An application shall be made to the Board of Aldermen which must include:

a. The applicant's name and signature;

b. Subject address;

c. Plot plan depicting the location of the proposed detached garage and location of existing structures on the subject property.

(2) *Application Review*. The Board of Aldermen shall give consideration to the application based on the location, size and height of the proposed detached garage and other site specific criteria, including, but not limited to the following:

a. That the detached garage shall not create a traffic or safety hazard to the subject or adjacent properties; and

b. That the detached garage shall not substantially impact stormwater conditions; and

c. That the detached garage shall not negatively affect the character or general welfare of the neighborhood.

(3) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of the proposed detached garage and the date of the meeting at which the application will be considered.

Section 23-34. Dedicated Open Space Requirements for 1-A Community Unit Plan. [Ord. No. 1917 §§1 — 2, 6-6-2006]

Minimum open space dedication requirements (including alternatives in lieu thereof) for a 1-A Community Unit Plan shall be five percent (5%).

Section 23-35. Off-Street Parking Requirements. [Ord. No. 1917 §§1 — 2, 6-6-2006]

All uses shall be required to provide for off-street parking in accordance with Article XV of this Chapter.

ARTICLE III-A
"R-1" Single-Family Residence District Regulations

The regulations of this district are supplemented and qualified by additional general regulations appearing elsewhere in this Chapter.

Section 23-37.1. Permitted Uses. [Ord. No. 646 §2; Ord. No. 680 §1; Ord. No. 1194 §1, 9-19-1995; Ord. No. 1488 §5, 10-17-2000; Ord. No. 1917 §1, 6-6-2006]

(a) Single-family dwellings.

(b) Public and private not-for-profit parks, parkways and playgrounds.

(c) Golf courses, not including miniature courses or practice driving tees.

(d) Farms and truck gardens.

(e) Public or private elementary and secondary schools.

(f) Churches.

(g) Local public utility facilities.

(h) (Reserved)

(i) Day care homes.

(j) Accessory buildings, land uses and activities customarily incident to above uses (b) through (g).

(k) Accessory buildings customarily incident to single-family dwellings, limited to a maximum of two (2). Land uses and activities customarily incident to single-family dwellings.

(l) Home occupations.

Section 23-37.2. Special Uses. [Ord. No. 646 §2; Ord. No. 680 §2; Ord. No. 915 §3; Ord. No. 1194 §1, 9-19-1995; Ord. No. 1298 §1, 7-15-1997; Ord. No. 1503 §1, 1-2-2001; Ord. No. 1917 §1, 6-6-2006; Ord. No. 1972 §1, 5-1-2007]

(a) Sewage treatment plants.

(b) Temporary buildings for use incidental to residential construction.

(c) Cemeteries and mausoleums.

(d) Riding stables.

(e) Greenhouses and plant nurseries, not including any structure used for commercial purposes.

(f) Nursing homes.

(g) [Repealed by Ord. No. 1194 §1, 9-19-1995]

(h) Not-for-profit private clubs and recreational land uses.

(i) Retreats owned and operated by religious, educational or other not-for-profit institutions.

(j) Hospitals.

(k) Libraries.

(l) Nursery schools and day nurseries.

(m) Fire stations.

(n) Private stables.

(o) Bed and breakfast establishments.

(p) State of Missouri regulated day care homes in which care is given to between five (5) and ten (10) people.

(q) Telecommunications facilities, subject to additional provisions contained in this Chapter.

(r) Special events on property a minimum of ten (10) acres in area which is being utilized primarily for farming activities.

Section 23-37.3. Height Limitations. [Ord. No. 646 §2; Ord. No. 680 §3; Ord. No. 1917 §1, 6-6-2006]

(a) No residential structure shall exceed two and one-half (2½) stories or thirty-five (35) feet.

(b) Accessory structures to single-family dwellings shall not exceed one (1) story with gable roof to a maximum height of twelve (12) feet above ground floor elevation.

(c) Any non-residential structure may be erected to a height not exceeding seventy-five (75) feet when the front, side and rear yards are increased an additional two (2) feet for each foot exceeding thirty-five (35) feet in height; provided, that such exceptions shall not be permitted where they would conflict with any existing ordinances of the City or other governmental regulations regarding the height of structures surrounding airports, landing fields or landing strips.

Section 23-37.4. Lot Area, Lot Dimension and Yard Requirements. [Ord. No. 646 §2; Ord. No. 680 §4; Ord. No. 1294 §2, 6-17-1997; Ord. No. 1488 §6, 10-17-2000; Ord. No. 1917 §1, 6-6-2006]

(a) Farm buildings shall be situated on tracts of land providing at least ten (10) acres of land area.

(b) Residences shall be situated on tracts of land providing at least twenty thousand (20,000) square feet of lot area for each residence; except, that any lot or tract of record on March 16, 1982, which contains less area may be used as a site for one (1) single-family residence together with customary accessory structures and uses.

(b) No new lots shall be created of less than twenty thousand (20,000) square feet in area.

(c) Private stables and riding stables shall be situated on tracts of land providing at least three (3) acres of land use. No stable shall be located less than two hundred (200)

feet from any dwelling on an adjoining lot or seventy-five (75) feet from the common property line, whichever is greater.

(d) Elementary schools shall be situated on tracts of land providing at least five (5) acres. Secondary schools shall be situated on tracts of land providing at least twenty (20) acres.

(e) Churches shall be situated on tracts of land providing at least three (3) acres.

(f) Fire stations, nursery schools and day nurseries shall be situated on tracts of land providing at least one-half (½) acre.

(g) Libraries shall be situated on tracts of land providing at least two (2) acres.

(h) All other permitted land uses in this district, except local public utility facilities, shall be situated or conducted on tracts of land at least five (5) acres in area, except as may be clearly indicated otherwise by the context of these regulations.

(i) Except as otherwise provided in this Section, all special land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area. However, the Board of Aldermen, when approving a special land use, may allow the establishment of such use on tracts of land less than five (5) acres where the developments and uses contemplated are deemed consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses of the district; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and are deemed essential or desirable to preserve and promote the public health, safety and general welfare of the City; provided however, that the minimum tract area for such special developments and uses shall not be less than twenty thousand (20,000) square feet.

(j) Every lot shall have a minimum frontage of one hundred twenty-five (125) feet.

(k) No structure shall be erected within forty (40) feet of any public roadway right-of-way line. However, farm buildings shall not be located within one hundred (100) feet of any property line.

(l) There shall be a rear yard having a depth of not less than thirty (30) feet, except as otherwise provided in this Chapter.

(l) On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet except as otherwise provided in this Chapter.

(l) Corner lots shall be considered to have a front yard along both street frontages.

(l) On lots having double frontage, the front yard shall be along the street providing the main entrance to the lot.

(m) Detached accessory structures to single-family dwellings shall not exceed a maximum of seven hundred (700) square feet in total floor area under roof for all such detached accessory structures.

(n) *Corner Lot Front Yard Detached Garages.* The Board of Aldermen may authorize a detached garage to be constructed and operated within the front yard of a corner lot on parcels a minimum of one-half (½) acre in size, subject to the following process: [Ord. No. 2283 §1, 12-17-2013; Ord. No. 2298 §§1,2, 5-6-2014]

(1) *Application.* An application shall be made to the Board of Aldermen which must include:

a. The applicant's name and signature;

b. Subject address;

c. Plot plan depicting the location of the proposed detached garage and location of existing structures on the subject property.

(2) *Application Review*. The Board of Aldermen shall give consideration to the application based on the location, size and height of the proposed detached garage and other site specific criteria, including, but not limited to the following:

a. That the detached garage shall not create a traffic or safety hazard to the subject or adjacent properties; and

b. That the detached garage shall not substantially impact stormwater conditions; and

c. That the detached garage shall not negatively affect the character or general welfare of the neighborhood.

(3) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of the proposed detached garage and the date of the meeting at which the application will be considered.

Section 23-37.5. Dedicated Open Space Requirements for R-1 Community Unit Plan. [Ord. No. 1294 §9, 6-17-1997; Ord. No. 1917 §1, 6-6-2006]

Minimum open space dedication requirements (including alternatives in lieu thereof) for an R-1 Community Unit Plan shall be five percent (5%).

Section 23-37.6. Off-Street Parking Requirements. [Ord. No. 646 §2; Ord. No. 1917 §1, 6-6-2006]

All uses shall be required to provide for off-street parking in accordance with Article XV of this Chapter.

ARTICLE IV
"R-2" Single-Family Residence District Regulations

The regulations of this district are supplemented and qualified by additional general regulations appearing elsewhere in this Chapter.

Section 23-40. Permitted Uses. [Ord. No. 646 §2; Ord. No. 680 §1; Ord. No. 1194 §1, 9-19-1995; Ord. No. 1488 §7, 10-17-2000]

(a) Single-family dwellings.

(b) Public and private not-for-profit parks, parkways and playgrounds.

(c) Golf courses, not including miniature courses or practice driving tees.

(d) Farms and truck gardens.

(e) Public or private elementary and secondary schools.

(f) Churches.

(g) Local public utility facilities.

(h) (Reserved)

(i) Day care homes.

(j) Accessory buildings, land uses and activities customarily incident to above uses (b) through (g).

(k) Accessory buildings customarily incident to single-family dwellings, limited to a maximum of two (2). Land uses and activities customarily incident to single-family dwellings.

(l) Home occupations.

Section 23-41. Special Uses. [Ord. No. 646 §2; Ord. No. 680 §2; Ord. No. 915 §4; Ord. No. 1194 §1, 9-19-1995; Ord. No. 1298 §1, 7-15-1997; Ord. No. 1503 §1, 1-2-2001]

(a) Sewage treatment plants.

(b) Temporary buildings for use incidental to residential construction.

(c) Cemeteries and mausoleums.

(d) Riding stables.

(e) Greenhouses and plant nurseries, not including any structure used for commercial purposes.

(f) Nursing homes.

(g) [Repealed by Ord. No. 1194 §1, 9-19-1995]

(h) Not-for-profit private clubs and recreational land uses.

(i) Retreats owned and operated by religious, educational or other not-for-profit institutions.

(j) Hospitals.

(k) Libraries.

(l) Nursery schools and day nurseries.

(m) Fire stations.

(n) Private stables.

(o) Bed and breakfast establishments.

(p) State of Missouri regulated day care homes in which care is given to between five (5) and ten (10) people.

(q) Telecommunications facilities, subject to additional provisions contained in this Chapter.

Section 23-42. Height Limitations. [Ord. No. 646 §2; Ord. No. 680 §3]

(a) No residential structure shall exceed two and one-half (2½) stories or thirty-five (35) feet.

(b) Accessory structures to single-family dwellings shall not exceed one (1) story with gable roof to a maximum height of twelve (12) feet above ground floor elevation.

(c) Any non-residential structure may be erected to a height not exceeding seventy-five (75) feet when the front, side and rear yards are increased an additional two (2) feet for each foot exceeding thirty-five (35) feet in height; provided, that such exceptions shall not be permitted where they would conflict with any existing ordinances of the City or other governmental regulations regarding the height of structures surrounding airports, landing fields or landing strips.

Section 23-43. Lot Area, Lot Dimension and Yard Requirements. [Ord. No. 646 §2; Ord. No. 680 §4; Ord. No. 1294 §3, 6-17-1997; Ord. No. 1488 §8, 10-17-2000]

(a) Farm buildings shall be situated on tracts of land providing at least ten (10) acres of land area.

(b) Residences shall be situated on tracts of land providing at least fifteen thousand (15,000) square feet of lot area for each residence; except, that any lot or tract of record on March 16, 1982, which contains less area may be used as a site for one (1) single-family residence together with customary accessory structures and uses.

(b) No new lots shall be created of less than fifteen thousand (15,000) square feet in area.

(c) Private stables and riding stables shall be situated on tracts of land providing at least three (3) acres of land area. No stable shall be located less than two hundred (200) feet from any dwelling on an adjoining lot or seventy-five (75) feet from the common property line, whichever is greater.

(d) Elementary schools shall be situated on tracts of land providing at least five (5) acres. Secondary schools shall be situated on tracts of land providing at least twenty (20) acres.

(e) Churches shall be situated on tracts of land providing at least three (3) acres.

(f) Fire stations, nursery schools and day nurseries shall be situated on tracts of land providing at least one-half (½) acre.

(g) Libraries shall be situated on tracts of land providing at least two (2) acres.

(h) All other permitted land uses in this district, except local public utility facilities, shall be situated or conducted on tracts of land at least five (5) acres in area, except as may be clearly indicated otherwise by the context of these regulations.

(i) Except as otherwise provided in this Section, all special land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area. However, the Board of Aldermen, when approving a special land use, may allow the establishment of such use on tracts of land less than five (5) acres where the developments and uses contemplated are deemed consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses of the district; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and are deemed essential or desirable to preserve and promote the public health, safety and general welfare of the City; provided however, that the minimum tract area for such special developments and uses shall not be less than fifteen thousand (15,000) square feet.

(j) Every lot shall have a minimum frontage of one hundred (100) feet.

(k) No structure shall be erected within thirty (30) feet of any public roadway right-of-way line. However, farm buildings shall not be located within one hundred (100) feet of any property line.

(l) There shall be a rear yard having a depth of not less than thirty (30) feet, except as otherwise provided in this Chapter.

(l) On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet except as otherwise provided in this Chapter.

(l) Corner lots shall be considered to have a front yard along both street frontages.

(l) On lots having double frontage, the front yard shall be along the street providing the main entrance to the lot.

(m) Detached accessory structures to single-family dwellings shall not exceed a maximum of seven hundred (700) square feet in total floor area under roof for all such detached accessory structures.

(n) *Corner Lot Front Yard Detached Garages.* The Board of Aldermen may authorize a detached garage to be constructed and operated within the front yard of a corner lot on parcels a minimum of one-half (½) acre in size, subject to the following process: [Ord. No. 2283 §1, 12-17-2013; Ord. No. 2298 §§1,2, 5-6-2014]

(1) *Application.* An application shall be made to the Board of Aldermen which must include:

a. The applicant's name and signature;

b. Subject address;

c. Plot plan depicting the location of the proposed detached garage and location of existing structures on the subject property.

(2) *Application Review*. The Board of Aldermen shall give consideration to the application based on the location, size and height of the proposed detached garage and other site specific criteria, including, but not limited to the following:

a. That the detached garage shall not create a traffic or safety hazard to the subject or adjacent properties; and

b. That the detached garage shall not substantially impact stormwater conditions; and

c. That the detached garage shall not negatively affect the character or general welfare of the neighborhood.

(3) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of the proposed detached garage and the date of the meeting at which the application will be considered.

Section 23-44. (Reserved) [Repealed by Ordinance No. 930 § 1]

Section 23-45. Off-Street Parking Requirements. [Ord. No. 646 § 2]

All uses shall be required to provide for off-street parking in accordance with Article XV of this Chapter.

ARTICLE V
"R-3" Single-Family Residence District Regulations

[Ord. No. 646 § 2]

The regulations of this district are supplemented and qualified by additional general regulations appearing elsewhere in this Chapter.

Section 23-50. Permitted Uses. [Ord. No. 646 § 2; Ord. No. 680 § 1; Ord. No. 1194 § 1, 9-19-1995; Ord. No. 1488 § 9, 10-17-2000]

(a) Single-family dwellings.

(b) Public and private not-for-profit parks, parkways and playgrounds.

(c) Golf courses, not including miniature courses or practice driving tees.

(d) Farms and truck gardens.

(e) Public or private elementary and secondary schools.

(f) Churches.

(g) Local public utility facilities.

(h) (Reserved)

(i) Day care homes.

(j) Accessory buildings, land uses and activities customarily incident to the above uses (b) through (g).

(k) Accessory buildings customarily incident to single-family dwellings, limited to a maximum of two (2). Land uses and activities customarily incident to single-family dwellings.

(l) Home occupation.

Section 23-51. Special Uses. [Ord. No. 646 § 2; Ord. No. 680 § 2; Ord. No. 915 § 5; Ord. No. 1194 § 1, 9-19-1995; Ord. No. 1298 § 1, 7-15-1997; Ord. No. 1503 § 1, 1-2-2001]

(a) Sewage treatment plants.

(b) Temporary buildings for use incidental to residential construction.

(c) Cemeteries and mausoleums.

(d) Riding stables.

(e) Greenhouses and plant nurseries, not including any structure used for commercial purposes.

(f) Nursing homes.

(g) [Repealed by Ord. No. 1194 §1, 9-19-1995]

(h) Not-for-profit private clubs and recreational land uses.

(i) Retreats owned and operated by religious, educational or other not-for-profit institutions.

(j) Hospitals.

(k) Libraries.

(l) Nursery schools and day nurseries.

(m) Fire stations.

(n) Private stables.

(o) Bed and breakfast establishments.

(p) State of Missouri regulated day care homes in which care is given to between five (5) and ten (10) people.

(q) Telecommunications facilities, subject to additional provisions contained in this Chapter.

Section 23-52. Height Limitations. [Ord. No. 646 §2; Ord. No. 680 §3]

(a) No residential structure shall exceed two and one-half (2½) stories or thirty-five (35) feet.

(b) Accessory structures to single-family dwellings shall not exceed one (1) story with gable roof to a maximum height of twelve (12) feet above ground floor elevation.

(c) Any non-residential structure may be erected to a height not exceeding seventy-five (75) feet when the front, side and rear yards are increased an additional two (2) feet for each foot exceeding thirty-five (35) feet in height; provided, that such exceptions shall not be permitted where they would conflict with any existing ordinances of the City or other governmental regulations regarding the height of structures surrounding airports, landing fields or landing strips.

Section 23-53. Lot Area, Lot Dimension and Yard Requirements. [Ord. No. 646 §2; Ord. No. 680 §4; Ord. No. 1294 §4, 6-17-1997; Ord. No. 1488 §10, 10-17-2000; Ord. No. 1757 §1, 5-4-2004]

(a) Farm buildings shall be situated on tracts of land providing at least ten (10) acres of land area.

(b) Residences shall be situated on tracts of land providing at least ten thousand (10,000) square feet of lot area for each residence; except, that any lot or tract of record on March 16, 1982, which contains less area may be used as a site for one (1) single-family residence together with customary accessory structures and uses.

(b) No new lots shall be created of less than ten thousand (10,000) square feet in area.

(c) Private stables and riding stables shall be situated on tracts of land providing at least three (3) acres of land area. No stable shall be located less than two hundred (200) feet from any dwelling on an adjoining lot or seventy-five (75) feet from the common property line, whichever is greater.

(d) Elementary schools shall be situated on tracts of land providing at least five (5) acres. Secondary schools shall be situated on tracts of land providing at least twenty (20) acres.

(e) Churches shall be situated on tracts of land providing at least three (3) acres.

(f) Fire stations, nursery schools and day nurseries shall be situated on tracts of land providing at least one-half (½) acre.

(g) Libraries shall be situated on tracts of land providing at least two (2) acres.

(h) All other permitted land uses in this district, except local public utility facilities, shall be situated or conducted on tracts of land at least five (5) acres in area, except as may be clearly indicated otherwise by the context of these regulations.

(i) Except as otherwise provided in this Section, all special land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area. However, the Board of Aldermen, when approving a special land use, may allow the establishment of such use on tracts of land less than five (5) acres where the developments and uses contemplated are deemed consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses of the district; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and are deemed essential or desirable to preserve and promote the public health, safety, and general welfare of the City; provided however, that the minimum tract area for such special developments and uses shall not be less than ten thousand (10,000) square feet.

(j) Every lot shall have a minimum frontage of eighty (80) feet.

(k) No structure shall be erected within thirty (30) feet of any public roadway right-of-way line. However, farm buildings shall not be located within one hundred (100) feet of any property line.

(l) There shall be a rear yard having a depth of not less than twenty-five (25) feet except as otherwise provided in this Chapter.

(l) On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet except as otherwise provided in this Chapter.

(l) Corner lots shall be considered to have a front yard along both street frontages.

(l) On lots having double frontage, the front yard shall be along the street providing the main entrance to the lot.

(l) The Board of Aldermen may give consideration to allowing a side yard of not less than four (4) feet in those instances where a garage of a structure is opposite to the habitable area of a neighboring structure, or a garage is opposite to the garage of a neighboring structure. Such consideration may only be given to structures built prior to 1970 and shall be partially based on the extent to which the plat or subdivision in which the subject property is located is within the 100-year floodplain. The subject property must be posted with a public notice no less than fourteen (14) days prior to the date such is to receive Board of Aldermen consideration.

(m) Detached accessory structures to single-family dwellings shall not exceed a maximum of seven hundred (700) square feet in total floor area under roof for all such detached accessory structures.

(n) *Corner Lot Front Yard Detached Garages.* The Board of Aldermen may authorize a detached garage to be constructed and operated within the front yard of a corner lot on parcels a minimum of one-half (½) acre in size, subject to the following process: [Ord. No. 2283 §1, 12-17-2013; Ord. No. 2298 §§1,2, 5-6-2014]

(1) *Application.* An application shall be made to the Board of Aldermen which must include:

a. The applicant's name and signature;

b. Subject address;

c. Plot plan depicting the location of the proposed detached garage and location of existing structures on the subject property.

(2) *Application Review*. The Board of Aldermen shall give consideration to the application based on the location, size and height of the proposed detached garage and other site specific criteria, including, but not limited to the following:

a. That the detached garage shall not create a traffic or safety hazard to the subject or adjacent properties; and

b. That the detached garage shall not substantially impact stormwater conditions; and

c. That the detached garage shall not negatively affect the character or general welfare of the neighborhood.

(3) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of the proposed detached garage and the date of the meeting at which the application will be considered.

Section 23-54. (Reserved) [Repealed by Ordinance No. 930 §1]

Section 23-55. Off-Street Parking Requirements. [Ord. No. 646 §2]

All uses shall be required to provide for off-street parking in accordance with Article XV of this Chapter.

ARTICLE VI
"R-4" Single-Family Residence District Regulations

The regulations of this district are supplemented and qualified by additional general regulations appearing elsewhere in this Chapter.

Section 23-60. Permitted Uses. [Ord. No. 646 §2; Ord. No. 680 §1; Ord. No. 1194 §1, 9-19-1995; Ord. No. 1488 §11, 10-17-2000]

(a) Single-family dwellings.

(b) Public and private not-for-profit parks, parkways and playgrounds.

(c) Golf courses, not including miniature courses or practice driving tees.

(d) Farms and truck gardens.

(e) Public or private elementary and secondary schools.

(f) Churches.

(g) Local public utility facilities.

(h) (Reserved)

(i) Day care homes.

(j) Accessory buildings, land uses and activities customarily incident to above uses (b) through (g).

(k) Accessory buildings customarily incident to single-family dwellings, limited to a maximum of two (2). Land uses and activities customarily incident to single-family dwellings.

(l) Home occupation.

Section 23-61. Special Uses. [Ord. No. 646 §2; Ord. No. 680 §2; Ord. No. 915 §6; Ord. No. 1194 §1, 9-19-1995; Ord. No. 1298 §1, 7-15-1997; Ord. No. 1503 §1, 1-2-2001]

(a) Sewage treatment plants.

(b) Temporary buildings for use incidental to residential construction.

(c) Cemeteries and mausoleums.

(d) Riding stables.

(e) Greenhouses and plant nurseries, not including any structure used for commercial purposes.

(f) Nursing homes.

(g) [Repealed by Ord. No. 1194 §1, 9-19-1995]

(h) Not-for-profit private clubs and recreational land uses.

(i) Retreats owned and operated by religious, educational or other not-for-profit institutions.

(j) Hospitals.

(k) Libraries.

(l) Nursery schools and day nurseries.

(m) Fire stations.

(n) Private stables.

(o) Bed and breakfast establishments.

(p) State of Missouri regulated day care homes in which care is given to between five (5) and ten (10) people.

(q) Telecommunications facilities, subject to additional provisions contained in this Chapter.

Section 23-62. Height Limitations. [Ord. No. 646 §2; Ord. No. 680 §3]

(a) No residential structure shall exceed two and one-half (2½) stories or thirty-five (35) feet.

(b) Accessory structures to single-family dwellings shall not exceed one (1) story with gable roof to a maximum height of twelve (12) feet above ground floor elevation.

(c) Any non-residential structure may be erected to a height not exceeding seventy-five (75) feet when the front, side and rear yards are increased an additional two (2) feet for each foot exceeding thirty-five (35) feet in height; provided, that such exceptions shall not be permitted where they would conflict with any existing ordinances of the City or other governmental regulations regarding the height of structures surrounding airports, landing fields or landing strips.

Section 23-63. Lot Area, Lot Dimension and Yard Requirements. [Ord. No. 646 §2; Ord. No. 653 §1; Ord. No. 680 §4; Ord. No. 1294 §§5 — 7, 6-17-1997; Ord. No. 1488 §12, 10-17-2000; Ord. No. 1757 §2, 5-4-2004]

(a) Farm buildings shall be situated on tracts of land providing at least ten (10) acres of land area.

(b) Residences shall be situated on tracts of land providing at least eight thousand five hundred (8,500) square feet of lot area for each residence; except, that any lot or tract of record between March 16, 1982 and June 17, 1997, which contains a minimum of seven thousand five hundred (7,500) square feet may be used as a site for one (1) single-family residence together with customary accessory structures and uses, and any lot or tract of record on March 16, 1982 which contains less area than seven thousand five hundred (7,500) square feet may be used as a site for one (1) single-family residence together with customary accessory structures and uses.

(b) No new lots shall be created of less than eight thousand five hundred (8,500) square feet in area.

(c) Private stables and riding stables shall be situated on tracts of land providing at least three (3) acres of land area. No stable shall be located less than two hundred (200) feet from any dwelling on an adjoining lot or seventy-five (75) feet from the common property line, whichever is greater.

(d) Elementary schools shall be situated on tracts of land providing at least five (5) acres. Secondary schools shall be situated on tracts of land providing at least twenty (20) acres.

(e) Churches shall be situated on tracts of land providing at least three (3) acres.

(f) Fire stations, nursery schools and day nurseries shall be situated on tracts of land providing at least one-half (½) acre.

(g) Libraries shall be situated on tracts of land providing at least two (2) acres.

(h) All other permitted land uses in this district, except local public utility facilities, shall be situated or conducted on tracts of land at least five (5) acres in area, except as may be clearly indicated otherwise by the context of these regulations.

(i) Except as otherwise provided in this Section, all special land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area. However, the Board of Aldermen, when approving a special land use, may allow the establishment of such use of tracts of land less than five (5) acres where the developments and uses contemplated are deemed consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses of the district; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and are deemed essential or desirable to preserve and promote the public health, safety and general welfare of the City; provided however, that the minimum tract area for such special developments and uses shall not be less than seven thousand five hundred (7,500) square feet.

(j) Every lot shall have a minimum frontage of seventy (70) feet; except, that any lot or tract of record on June 17, 1997, may have a minimum frontage of sixty (60) feet.

(k) No structure shall be erected within thirty (30) feet of any public roadway right-of-way line. However, farm buildings shall not be located within one hundred (100) feet of any property line.

(l) There shall be a rear yard having a depth of not less than twenty-five (25) feet except as otherwise provided in this Chapter.

(l) On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet except as otherwise provided in this Chapter; except that any lot or tract of record on June 17, 1997 may have a side yard on each side of a building having a width of not less than six (6) feet.

(l) Corner lots shall be considered to have a front yard along both street frontages.

(l) On lots having double frontage, the front yard shall be along the street providing the main entrance to the lot.

(l) The Board of Aldermen may give consideration to allowing a side yard of not less than four (4) feet in those instances where a garage of a structure is opposite to the habitable area of a neighboring structure, or a garage is opposite to the garage of a neighboring structure. Such consideration may only be given to structures built prior to 1970 and shall be partially based on the extent to which the plat or subdivision in which the subject property is located is within the 100-year floodplain. The subject property must be posted with a public notice no less than fourteen (14) days prior to the date such is to receive Board of Aldermen consideration.

(m) Detached accessory structures to single-family dwellings shall not exceed a maximum of seven hundred (700) square feet in total floor area under roof for all such detached accessory structures.

(n) *Corner Lot Front Yard Detached Garages.* The Board of Aldermen may authorize a detached garage to be constructed and operated within the front yard of a corner lot

on parcels a minimum of one-half (½) acre in size, subject to the following process: [Ord. No. 2283 §1, 12-17-2013; Ord. No. 2298 §§1,2, 5-6-2014]

(1) *Application.* An application shall be made to the Board of Aldermen which must include:

a. The applicant's name and signature;

b. Subject address;

c. Plot plan depicting the location of the proposed detached garage and location of existing structures on the subject property.

(2) *Application Review.* The Board of Aldermen shall give consideration to the application based on the location, size and height of the proposed detached garage and other site specific criteria, including, but not limited to the following:

a. That the detached garage shall not create a traffic or safety hazard to the subject or adjacent properties; and

b. That the detached garage shall not substantially impact stormwater conditions; and

c. That the detached garage shall not negatively affect the character or general welfare of the neighborhood.

(3) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of the proposed detached garage and the date of the meeting at which the application will be considered.

Section 23-64. (Reserved) [Repealed by Ordinance. No. 930 §1]

Section 23-65. Off-Street Parking Requirements. [Ord. No. 646 §2]

All uses shall be required to provide for off-street parking in accordance with Article XV of this Chapter.

ARTICLE VI-A
Planned Residential District (PRD)

Editor's Note — Ord. no. 2002 §1, adopted October 2, 2007, repealed sections 23-66.1 — 23.66.10 and enacted new provisions set out herein. Former sectioons 23-66.1 — 23.66.10 derived from ord. no. 1721 §1, 10-7-2003; ord. no. 1882 §1, 1-3-2006.

Section 23-66.1. Purpose. [Ord. No. 2002 §1, 10-2-2007]

The purpose of the Planned Residential District ("PRD") is to allow a less restrictive relationship among various buildings, structures and open spaces in planned building groups on large parcels of land, as long as public health, safety and welfare are preserved. Freedom to design includes flexible standards concerning lot and yard dimensions. This district is further intended to preserve steep slopes, floodways, significant woodlands and

other sensitive natural lands. Larger-scale site planning for residential and supporting uses should produce high quality buildings and open spaces while preserving the best environmental features. Internal roads and drives should complement the City's system of arterial and collector roads.

Section 23-66.2. Permitted Uses. [Ord. No. 2002 §1, 10-2-2007]

(a) Single-family detached dwellings.

(b) Residential group homes.

(c) Attached single-family dwellings.

(d) Single-family cottage dwellings.

(e) Public elementary and secondary schools.

(f) Public administration including only the following:

(1) Executive, legislative and other general government support;

(2) Police protection;

(3) Fire protection; and

(4) Other justice, public order and safety activities.

(g) Places of worship.

(h) Arts, entertainment and recreation including only the following:

(1) Golf courses and country clubs (uses within NAICS Code 71391); and

(2) Parks and playgrounds.

(i) Libraries.

(j) Day care homes.

(k) Minor public and private utilities including substations, lift stations, water storage facilities and similar uses.

(l) Home occupation.

Section 23-66.3. Accessory Uses and Structures. [Ord. No. 2002 §1, 10-2-2007]

(a) Uses and structures customarily accessory to a permitted use may be allowed subject to restrictions within the applicable sections of the Eureka Municipal Code.

(b) A maximum of two (2) accessory structures not to exceed a total combined area of seven hundred (700) square feet may be erected on a single-family detached lot.

(c) A maximum of two (2) accessory structures not to exceed a total combined area of five hundred (500) square feet may be erected on a two-family attached lot.

Section 23-66.4. Special Uses. [Ord. No. 2002 §1, 10-2-2007]

The following uses may be allowed within a "PRD" upon being authorized pursuant to applicable procedures set forth in Section 23-182:

(a) State of Missouri regulated day care homes in which care is given to between five (5) and ten (10) people.

(b) Telecommunications facilities subject to additional provisions contained in this Chapter.

Section 23-66.5. Minimum Area and Maximum Density. [Ord. No. 2002 §1, 10-2-2007]

The minimum size of any "PRD" shall be one hundred (100) acres. The maximum overall residential density of the entire gross area of any "PRD" less than three hundred (300) acres shall not exceed two and one-half (2½) dwelling units per acre. The maximum overall residential density of the entire gross area of any "PRD" greater than or equal to three hundred (300) acres shall not exceed three (3) dwelling units per acre.

Section 23-66.6. Off-Street Parking Requirements. [Ord. No. 2002 §1, 10-2-2007]

All uses shall be required to provide off-street parking in accordance with Article XV of this Chapter.

Section 23-66.7. Dimensional Regulations for Single-Family Detached Dwellings. [Ord. No. 2002 §1, 10-2-2007]

The following dimensional requirements shall be applicable for single-family detached residences:

(a) *Minimum lot size.*	Five thousand five hundred square feet for lots with 50 feet of lot frontage, with 1,000 additional square feet of lot area required for each additional 10 feet of lot frontage.
(b) *Minimum lot frontage.*	Fifty feet.
(c) *Minimum lot depth.*	One hundred feet.
(d) *Minimum front yard.*	Twenty feet.
(e) *Minimum side yard.*	Six feet.
(f) *Minimum rear yard.*	Twenty feet, 15 feet when rear of the lot abuts an alley or subdivision common ground.
(g) *Maximum building height.*	Thirty-five feet or 2½ stories. Structures accessory to single-family dwellings shall not exceed one story.

Section 23-66.8. Dimensional Regulations for Single-Family Attached Dwellings. [Ord. No. 2002 §1, 10-2-2007]

(a) *Minimum lot size.*	A minimum of 2,000 square feet per dwelling.
(b) *Minimum lot frontage.*	Twenty feet.
(c) *Minimum lot depth.*	One hundred feet.
(d) *Minimum front yard.*	Twenty feet.
(e) *Minimum side yard.*	Zero feet at point where dwelling units attach.
(f) *Minimum rear yard.*	Twenty feet, 15 feet when abutting an alley or subdivision common ground.
(g) *Maximum building height.*	Thirty-five feet or 2½ stories. Structures accessory to single-family dwellings shall not exceed one story nor 16 feet in height.

Section 23-66.9. Dimensional Regulations for Single-Family Detached Cottage Dwellings. [Ord. No. 2002 §1, 10-2-2007]

(a) *Minimum lot size.*	A minimum of 1,600 square feet per dwelling.
(b) *Minimum lot frontage.*	Forty feet.
(c) *Minimum lot depth.*	Forty feet.
(d) *Minimum front yard.*	Ten) feet.
(e) *Minimum side yard.*	Six feet.
(f) *Minimum rear yard.*	Six feet, except for attached or detached garages abutting an alley or "access drive" shall require no setback.
(g) *Maximum building height.*	Thirty-five feet or 2½ stories. Structures accessory to single-family dwellings shall not exceed one story nor 16 feet in height.

Section 23-66.10. Additional Standards for Single-Family Attached and Single-Family Detached Cottage Dwellings. [Ord. No. 2002 §1, 10-2-2007]

(a) No more than four (4) single-family attached dwellings may be attached.

(b) There shall be a minimum separation of twelve (12) feet between groups of single-family attached dwellings.

(c) All single-family detached cottage dwellings must be more than ten (10) feet from any City road or right-of-way.

(d) All lawn and landscaping care related to single-family attached dwellings and single-family detached cottage dwellings shall be provided by the subdivision homeowners association.

Section 23-66.11. Park and Open Space Requirements. [Ord. No. 2002 §1, 10-2-2007]

Every "PRD" development shall comply with Section 20A-6(k) with respect to open space and park dedication requirements. The percentage of dedication shall be twelve percent (12%).

Section 23-66.12. Processing of "PRD" Applications. [Ord. No. 2002 §1, 10-2-2007]

(a) An application to establish or amend a "PRD" shall receive consideration under applicable procedures set forth in Section 23-181.

(b) In view of the increased design flexibility provided under the "PRD" provisions, the Board of Aldermen may impose specific conditions in connection with approval of the application which may include, but not necessarily be limited to:

(1) That which is depicted on the plan which accompanies the application as may be amended during the course of City staff or City consultant review;

(2) Review comments and reports produced by City staff or City consultants;

(3) Any reports or recommendations produced by City boards or commissions; and

(4) Requirements based on representations made by the applicant during the course of consideration.

(c) Following the passage of an ordinance approving a "PRD", the plan considered in connection with the application shall be considered to have been granted preliminary plat approval. All final plat approvals shall be considered under procedures and criteria set forth in Section 23-182, Chapter 20A and other applicable Sections of the Eureka Municipal Code.

ARTICLE VII
Two-Family Attached (Duplex), Mixed Single-Family and Multiple-Family Residential District Regulations [1]

Division 1
"R-5A" Two-Family Attached (Duplex) Residential District

Section 23-70.1. Purpose. [Ord. No. 1633 §4, 9-17-2002]

The purpose of the "R-5A" Two-Family Attached (Duplex) Residential District is to provide areas for two-family attached residential uses of an urban character, as well as certain single-family residential uses. This district is further intended to provide for other uses that are customarily found with and are not detrimental to single-family attached residences.

Section 23-70.2. Permitted Uses. [Ord. No. 1633 §4, 9-17-2002]

Buildings or structures may be erected, altered or used for the following:

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1. **Editor's Note — Ord. no. 1633 §4, adopted September 17, 2002, repealed article VII, sections 23-70 — 23-75 enacting the new provisions set out herein. Former sections 23-70 — 23-75 derived from ord. no. 646 §2; ord. no. 680 §§1 — 4; ord. no. 917 §2; ord. no. 1194 §1, 9-19-1995; ord. no. 1488 §§13 — 14, 10-17-2000; ord. no. 1298 §1, 7-15-1997; ord. no. 1503 §1, 1-2-2001.**

(a) Detached single-family dwellings.

(b) Two-family attached (duplex) dwellings.

(c) Group homes.

(d) Public elementary and secondary schools.

(e) Public administration including only the following:

  (1) Executive, legislative and other general government support;

  (2) Police protection;

  (3) Fire protection; and

  (4) Other justice, public order and safety activities.

(f) Places of worship.

(g) Arts, entertainment and recreation including only the following:

  (1) Golf courses and country clubs; and

  (2) Parks and playgrounds.

(h) Libraries.

(i) Day care homes.

(j) Minor public and private utilities, including substations, lift stations, water towers and similar uses.

(k) Home occupation.

Section 23-70.3. Accessory Uses and Structures. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §2, 10-5-2004]

Uses and structures customarily accessory to a permitted use may be allowed within the "R-5A" District, subject to further restrictions of this Section. Not more than two (2) accessory buildings may be located on any lot devoted to single-family use and the sum of the floor area of such accessory buildings shall not exceed a total square footage of five hundred (500) square feet under roof and shall not exceed one (1) story with gable roof to a maximum height of sixteen (16) feet above ground floor elevation.

Section 23-70.4. Special Uses. [Ord. No. 1633 §4, 9-17-2002]

The following uses may be allowed within the "R-5A" District subject to the procedures in Section 23-182.

(a) Child care centers and State of Missouri regulated day care homes (as defined by the State of Missouri) in which care is given to between five (5) and ten (10) people.

(b) Private elementary and secondary schools without residential facilities, provided that such institutions are located on lots of at least five (5) acres.

(c) Telecommunications facilities, subject to additional provisions contained in this Chapter.

Section 23-70.5. Off-Street Parking Requirements. [Ord. No. 1633 §4, 9-17-2002]

All uses shall be required to provide off-street parking in accordance with Article XV of this Chapter.

Section 23-70.6. Dimensional Regulations for Detached Single-Family Dwellings. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §3, 10-5-2004]

(a) *Minimum Lot Size.* Ten thousand (10,000) square feet, except that such dwellings may be placed on non-conforming lots of record created prior to March 16, 1982.

(b) *Minimum Lot Frontage.* Eighty (80) feet.

(c) *Minimum Lot Depth.* One hundred (100) feet.

(d) *Minimum Front Yard.* Twenty-five (25) feet.

(e) *Minimum Side Yard.* Five (5) feet.

(f) *Minimum Rear Yard.* Twenty-five (25) feet for principal buildings; five (5) feet for accessory buildings, except for attached or detached garages abutting an alley that shall require no setback.

(g) *Maximum Building Height.* Two and one-half (2½) stories or thirty-five (35) feet. Structures accessory to single-family dwellings shall not exceed one (1) story nor sixteen (16) feet above ground level.

Section 23-70.7. Dimensional Regulations for Two-Family Attached (Duplex) Structures. [Ord. No. 1633 §4, 9-17-2002]

(a) *Minimum Lot Size.* Ten thousand (10,000) square feet.

(b) *Minimum Lot Frontage.* Eighty (80) feet.

(c) *Minimum Lot Depth.* One hundred (100) feet.

(d) *Minimum Front Yard.* Twenty (20) feet.

(e) *Minimum Side Yard.* Ten (10) feet; five (5) feet for accessory buildings.

(f) *Minimum Rear Yard.* Twenty-five (25) feet for principal buildings; five (5) feet for accessory buildings, except for attached or detached garages abutting an alley that shall require no setback.

(g) *Maximum Building Height.* Two and one-half (2½) stories or thirty-five (35) feet.

(h) *Maximum Building Coverage.* Forty percent (40%).

Section 23-70.8. Dimensional Regulations for Non-Residential Uses. [Ord. No. 1633 §4, 9-17-2002]

(a) *Minimum Lot Size.* Twenty thousand (20,000) square feet.

(b) *Minimum Lot Frontage.* Eighty (80) feet.

(c) *Minimum Lot Depth.* One hundred (100) feet.

(d) *Minimum Front Yard.* Thirty (30) feet.

(e) *Minimum Side Yard.* Ten (10) feet; five (5) feet for accessory buildings.

(f) *Minimum Rear Yard.* Twenty-five (25) feet for principal buildings; five (5) feet for accessory buildings.

(g) *Maximum Building Height.* Non-residential structures may be erected to a height not exceeding fifty (50) feet when the front, side and rear yards are increased an additional two (2) feet for each foot exceeding thirty-five (35) feet in height; provided, that no structure shall be erected to a height that would encroach into or through any established public or private airport approach plan prepared according to the criteria established by the Federal Aviation Administration.

(h) *Maximum Building Coverage.* Thirty percent (30%).

(i) .Buffer yards shall be provided as required by the City. Said buffer yards shall be landscaped and provided with other screening devices and devoted entirely to landscape material, including trees, bushes, grasses, fences, walls and berms.

Section 23-70.9. Development Plan and/or Plat Required. [Ord. No. 1795 §15, 10-5-2004]

No application for rezoning of a parcel to this zoning district classification may be considered without being accompanied by a subdivision plat and/or site plan depicting the manner in which the property is to be developed including, but not limited to, lot and/or structure numbers, size and location; street locations; park size and location; common ground size and location; storm water management facilities; and buffers. Any proposed deviations from that which is approved in connection with rezoning requests must be authorized by the Board of Aldermen following receipt of a recommendation from the Planning and Zoning Commission.

Division 2
"R-5B" Mixed Single-Family Residential District

Section 23-71.1. Purpose. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §10, 10-5-2004]

The purpose of the "R-5B" Mixed Single-Family Residential District is to provide areas for non-traditional single-family and two-family residential uses of an urban character including attached single-family dwellings (which may be referred to as town houses or row houses) and attached two-family (duplex) dwellings. It is further intended to provide for other uses that are customarily found with and are not detrimental to single-family and two-family residences.

Section 23-71.2. Permitted Uses. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §11, 10-5-2004]

Buildings or structures may be erected, altered or used for the following:

(a) Detached single-family dwellings.

(b) Two-family attached (duplex) dwellings.

(c) Attached single-family dwellings.

(d) Group homes.

(e) Public elementary and secondary schools.

(f) Public administration including only the following.

  (1) Executive, legislative and other general government support;

  (2) Police protection;

  (3) Fire protection; and

  (4) Other justice, public order and safety activities.

(g) Places of worship.

(h) Arts, entertainment and recreation including only the following.

  (1) Golf courses and country clubs; and

  (2) Parks and playgrounds.

(i) Libraries.

(j) Day care homes.

(k) Minor public and private utilities, including substations, lift stations, water towers and similar uses.

(l) Home occupation.

Section 23-71.3. Accessory Uses and Structures. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §4, 10-5-2004]

Uses and structures customarily accessory to a permitted use may be allowed within the "R-5B" District, subject to further restrictions of this Section.

(a) Not more than two (2) accessory buildings may be located on any lot devoted to single-family use and the sum of the floor area of such accessory buildings shall not exceed a total square footage of five hundred (500) square feet under roof and shall not exceed one (1) story with gable roof to a maximum height of sixteen (16) feet above ground floor elevation.

(b) Private stables shall only be allowed on tracts of land of at least three (3) acres and shall provide a minimum of one (1) acre of land for each horse. Stables must be set

back at least seventy-five (75) feet from all property lines and at least two hundred (200) feet from any dwelling on an adjoining lot.

Section 23-71.4. Special Uses. [Ord. No. 1633 §4, 9-17-2002]

The following uses may be allowed within the "R-5B" District subject to the procedures in Section 23-182.

(a) Child care centers and State of Missouri regulated day care homes (as defined by the State of Missouri) in which care is given to between five (5) and ten (10) people.

(b) Private elementary and secondary schools without residential facilities, provided that such institutions are located on lots of at least five (5) acres.

(c) Not-for-profit private clubs and recreational land uses, provided that such institutions are located on lots of at least five (5) acres.

(d) Telecommunications facilities, subject to additional provisions contained in this Chapter.

Section 23-71.5. Additional Standards for Carports and Detached Garages. [Ord. No. 1633 §4, 9-17-2002]

(a) Every carport or detached garage shall provide a minimum interior space nine (9) feet wide by nineteen (19) feet long for each motor vehicle stored or intended to be stored.

(b) Residential developments may provide for one (1) or more groups of carports or detached garages in common areas. Such carports or detached garages may be erected in front yard areas provided that they do not encroach into any required minimum front yard.

Section 23-71.6. Off-Street Parking and Loading Requirements. [Ord. No. 1633 §4, 9-17-2002]

All uses shall be required to provide off-street parking in accordance with Article XV of this Chapter.

Section 23-71.7. Dimensional Regulations for Detached Single-Family Dwellings. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §5, 10-5-2004]

(a) *Minimum Lot Size.* Ten thousand (10,000) square feet, except that such dwellings may be placed on non-conforming lots of record created prior to March 16, 1982.

(b) *Minimum Lot Frontage.* Eighty (80) feet.

(c) *Minimum Lot Depth.* One hundred (100) feet.

(d) *Minimum Front Yard.* Twenty-five (25) feet.

(e) *Minimum Side Yard.* Five (5) feet.

(f) *Minimum Rear Yard.* Twenty-five (25) feet for principal buildings; five (5) feet for accessory buildings, except for attached or detached garages abutting an alley that shall require no setback.

(g) *Maximum Building Height.* Two and one-half (2½) stories or thirty-five (35) feet. Structures accessory to single-family dwellings shall not exceed one (1) story nor sixteen (16) feet above ground level.

Section 23-71.8. Dimensional Regulations for Two-Family Attached (Duplex) Structures. [Ord. No. 1633 §4, 9-17-2002]

(a) *Minimum Lot Size.* Ten thousand (10,000) square feet.

(b) *Minimum Lot Frontage.* Eighty (80) feet.

(c) *Minimum Lot Depth.* One hundred (100) feet.

(d) *Minimum Front Yard.* Twenty (20) feet.

(e) *Minimum Side Yard.* Ten (10) feet; five (5) feet for accessory buildings.

(f) *Minimum Rear Yard.* Twenty-five (25) feet for principal buildings; five (5) feet for accessory buildings, except for attached or detached garages abutting an alley that shall require no setback.

(g) *Maximum Building Height.* Two and one-half (2½) stories or thirty-five (35) feet.

(h) *Maximum Building Coverage.* Forty percent (40%).

Section 23-71.9. Dimensional Regulations for Single-Family Attached Dwellings. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1692 §1, 5-20-2003; Ord. No. 1795 §6, 10-5-2004]

(a) *Minimum Lot Size.* A minimum of two thousand five hundred (2,500) square feet of land area shall be provided for each dwelling unit.

(b) *Minimum Lot Frontage.* Thirty (30) feet.

(c) *Minimum Lot Depth.* Eighty (80) feet.

(d) *Minimum Front Yard.* Twenty (20) feet.

(e) *Minimum Side Yard.* Ten (10) feet; none between two (2) single-family attached dwellings; twenty (20) feet between two (2) groups of single-family attached dwellings; five (5) feet for accessory buildings.

(f) *Minimum Rear Yard.* Twenty (20) feet; five (5) feet for accessory buildings, except for attached or detached garages abutting an alley that shall require no setback.

(g) *Maximum Building Height.* Two and one-half (2½) stories or thirty-five (35) feet. Structures accessory to single-family dwellings shall not exceed one (1) story nor sixteen (16) feet above ground level.

(h) *Maximum Density.* Twelve (12) dwelling units per gross acre.

(i) *Maximum Building Coverage.* Fifty percent (50%) of the lot area.

Section 23-71.10. Additional Standards for Single-Family Attached Dwellings. [Ord. No. 1633 §4, 9-17-2002]

(a) Single-family attached dwellings shall not form long unbroken lines of row housing. Single-family attached dwellings shall constitute groupings making efficient, economical, compatible and convenient use of land and open space and serving the public purposes of zoning by a means alternative to conventional arrangements of yards and building areas.

(b) Single-family attached dwellings may be built in clusters of two (2) and three (3) contiguous attached units, however, no more than fifty percent (50%) of such contiguous dwelling units shall be of groups of three (3) units. Moreover, no more than two (2) contiguous single-family attached dwellings shall be built with the same front line. The required difference in front lines shall be a minimum of three (3) feet. In addition, there shall be a minimum separation of twenty (20) feet between groups of single-family attached dwellings.

(c) Each single-family attached dwelling shall provide not less than six hundred (600) square feet of yard space exclusive of private access ways and off-street parking. If the yard space is divided, one (1) space shall contain not less than four hundred (400) square feet and the other space shall contain not less than two hundred (200) square feet.

(d) Every or detached garage shall provide a minimum interior space nine (9) feet wide by nineteen (19) feet long for each motor vehicle stored or intended to be stored.

Section 23-71.11. Dimensional Regulations for Non-Residential Uses. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §12, 10-5-2004[2]]

(a) *Minimum Lot Size.* Twenty thousand (20,000) square feet.

(b) *Minimum Lot Frontage.* Eighty (80) feet.

(c) *Minimum Lot Depth.* One hundred (100) feet.

(d) *Minimum Front Yard.* Thirty (30) feet.

(e) *Minimum Side Yard.* Ten (10) feet; five (5) feet for accessory buildings.

(f) *Minimum Rear Yard.* Twenty-five (25) feet for principal buildings; five (5) feet for accessory buildings.

(g) *Maximum Building Height.* Non-residential structures may be erected to a height not exceeding fifty (50) feet when the front, side and rear yards are increased an additional two (2) feet for each foot exceeding thirty-five (35) feet in height; provided, that no structure shall be erected to a height that would encroach into or

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[2]. **Editor's Note — Ord. no. 1795 §12, adopted October 5, 2004, repealed section 23-71.11 "dimensional regulations for detached single-family dwellings on non-traditional lots" in its entirety and renumbered 23-71.12 as Section 23-71.11. Former section 23-71.11 derived from ord. no. 1633 §4, 9-17-2002; ord. no. 1692 §2, 5-20-2003.**

through any established public or private airport approach plan prepared according to the criteria established by the Federal Aviation Administration.

(h) *Maximum Building Coverage.* Thirty percent (30%).

(i) *Buffer Yards.* Buffer yards shall be provided as required by the City. Said buffer yards shall be landscaped and provided with other screening devices and devoted entirely to landscape material, including trees, bushes, grasses, fences, walls and berms.

Section 23-71.12. Development Plan and/or Plat Required. [Ord. No. 1795 §15, 10-5-2004]

No application for rezoning of a parcel to this zoning district classification may be considered without being accompanied by a subdivision plat and/or site plan depicting the manner in which the property is to be developed including, but not limited to, lot and/or structure numbers, size and location; street locations; park size and location; common ground size and location; storm water management facilities; and buffers. Any proposed deviations from that which is approved in connection with rezoning requests must be authorized by the Board of Aldermen following receipt of a recommendation from the Planning and Zoning Commission.

Division 3
"R-5C" Multiple-Family Residential District

Section 23-72.1. Purpose. [Ord. No. 1633 §4, 9-17-2002]

The purpose of the "R-5C", Multiple-Family Residential District is to provide areas for multiple-family residential uses of an urban character. It is further intended to provide for other uses that are customarily found with and are not detrimental to multiple-family residences.

Section 23-72.2. Permitted Uses. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §13, 10-5-2004]

Buildings or structures may be erected, altered or used for the following:

(a) Detached single-family dwellings.

(b) Two-family attached (duplex) dwellings.

(c) Attached single-family dwellings.

(d) Multiple-family dwellings.

(e) Group homes.

(f) Public elementary and secondary schools.

(g) Public administration including only the following:

(1) Executive, legislative and other general government support;

(2) Police protection;

(3) Fire protection; and

(4) Other justice, public order and safety activities.

(h) Places of worship.

(i) Arts, entertainment and recreation including only the following:

(1) Golf courses and country clubs; and

(2) Parks and playgrounds.

(j) Libraries.

(k) Day care homes.

(l) Minor public and private utilities, including substations, lift stations, water towers and similar uses.

(m) Home occupation.

Section 23-72.3. Accessory Uses and Structures. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §7, 10-5-2004]

Uses and structures customarily accessory to a permitted use may be allowed within the "R-5C" District, subject to further restrictions of this Section.

(a) Not more than two (2) accessory buildings may be located on any lot devoted to single-family use and the sum of the floor area of such accessory buildings shall not exceed a total square footage of seven hundred (700) square feet under roof and shall not exceed one (1) story with gable roof to a maximum height of sixteen (16) feet above ground floor elevation.

(b) Private stables shall only be allowed on tracts of land of at least three (3) acres and shall provide a minimum of one (1) acre of land for each horse. Stables must be set back at least seventy-five (75) feet from all property lines and at least two hundred (200) feet from any dwelling on an adjoining lot.

Section 23-72.4. Special Uses. [Ord. No. 1633 §4, 9-17-2002]

The following uses may be allowed within the "R-5C" District subject to the procedures in Section 23-182.

(a) Child care centers and State of Missouri regulated day care homes (as defined by the State of Missouri) in which care is given to between five (5) and ten (10) people.

(b) Private elementary and secondary schools, including schools with residential facilities, provided that such institutions are located on lots of at least five (5) acres.

(c) Nursing homes, assisted care facilities and life care facilities based on the following criteria:

(1) Shall be on a site of at least five (5) acres;

(2) The density of development (for apartment-type units) within an assisted care facility or life care facility shall not exceed twenty (20) dwelling units per acre. Living units with cooking facilities shall count as one (1) dwelling unit, and living units without cooking facilities shall count as two-thirds (2/3) of a dwelling unit for purposes of calculating the density of development;

(3) Life care facilities shall be primarily residential in character; however, convalescent and nursing homes, centralized eating facilities for residents of the facility, medical facilities and similar uses associated with the long- or short-term care of patients may be included.

(d) Riding stables, provided that such uses are located on lots of at least three (3) acres.

(e) Greenhouses and plant nurseries, provided that such are located on lots of at least five (5) acres.

(f) Not-for-profit private clubs and recreational land uses, provided that such are located on lots of at least five (5) acres.

(g) Retreats owned and operated by religious, educational or other not-for-profit institutions, provided that such institutions are located on lots of at least five (5) acres.

(h) Telecommunications facilities, subject to additional provisions contained in this Chapter.

Section 23-72.5. Additional Standards for Carports and Detached Garages. [Ord. No. 1633 §4, 9-17-2002]

(a) Every carport or detached garage shall provide a minimum interior space nine (9) feet wide by nineteen (19) feet long for each motor vehicle stored or intended to be stored.

(b) Residential developments may provide for one (1) or more groups of carports or detached garages in common areas. Such carports or detached garages may be erected in front yard areas provided that they do not encroach into any required minimum front yard.

Section 23-72.6. Off-Street Parking and Loading Requirements. [Ord. No. 1633 §4, 9-17-2002]

All uses shall be required to provide off-street parking in accordance with Article XV of this Chapter.

Section 23-72.7. Dimensional Regulations for Detached Single-Family Dwellings. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §8, 10-5-2004]

(a) *Minimum Lot Size.* Ten thousand (10,000) square feet, except that such dwellings may be placed on non-conforming lots of record created prior to March 16, 1982.

(b) *Minimum Lot Frontage.* Eighty (80) feet.

(c) *Minimum Lot Depth.* One hundred (100) feet.

(d) *Minimum Front Yard.* Twenty-five (25) feet.

(e) *Minimum Side Yard.* Five (5) feet.

(f) *Minimum Rear Yard.* Twenty-five (25) feet for principal buildings; five (5) feet for accessory buildings, except for attached or detached garages abutting an alley that shall require no setback.

(g) *Maximum Building Height.* Two and one-half (2½) stories or thirty-five (35) feet. Structures accessory to single-family dwellings shall not exceed one (1) story nor sixteen (16) feet above ground level.

Section 23-72.8. Dimensional Regulations for Two-Family Attached (Duplex) Structures. [Ord. No. 1633 §4, 9-17-2002]

(a) *Minimum Lot Size.* Ten thousand (10,000) square feet.

(b) *Minimum Lot Frontage.* Eighty (80) feet.

(c) *Minimum Lot Depth.* One hundred (100) feet.

(d) *Minimum Front Yard.* Twenty (20) feet.

(e) *Minimum Side Yard.* Ten (10) feet; five (5) feet for accessory buildings.

(f) *Minimum Rear Yard.* Twenty-five (25) feet for principal buildings; five (5) feet for accessory buildings, except for attached or detached garages abutting an alley that shall require no setback.

(g) *Maximum Building Height.* Two and one-half (2½) stories or thirty-five (35) feet.

(h) *Maximum Building Coverage.* Forty percent (40%).

Section 23-72.9. Dimensional Regulations for Single-Family Attached Dwellings. [Ord. No. 1633 §4, 9-17-2002Ord. No. 1692 §3, 5-20-2003; Ord. No. 1795 §9, 10-5-2004]

(a) *Minimum Lot Size.* A minimum of two thousand five hundred (2,500) square feet of land area shall be provided for each dwelling unit.

(b) *Minimum Lot Frontage.* Thirty (30) feet.

(c) *Minimum Lot Depth.* Eighty (80) feet.

(d) *Minimum Front Yard.* Twenty (20) feet.

(e) *Minimum Side Yard.* Ten (10) feet; none between two (2) single-family attached dwellings; twenty (20) feet between two (2) groups of single-family attached dwellings; five (5) feet for accessory buildings.

(f) *Minimum Rear Yard.* Twenty (20) feet; five (5) feet for accessory buildings, except for attached or detached garages abutting an alley that shall require no setback.

(g) *Maximum Building Height.* Two and one-half (2½) stories or thirty-five (35) feet. Structures accessory to single-family dwellings shall not exceed one (1) story nor sixteen (16) feet above ground level.

(h) *Maximum Density.* Twelve (12) dwelling units per gross acre.

(i) *Maximum Building Coverage.* Fifty percent (50%) of the lot area.

Section 23-72.10. Additional Standards for Single-Family Attached Dwellings. [Ord. No. 1633 §4, 9-17-2002]

(a) Single-family attached dwellings shall not form long unbroken lines of row housing. Single-family attached dwellings shall constitute groupings making efficient, economical, compatible and convenient use of land and open space and serving the public purposes of zoning by a means alternative to conventional arrangements of yards and building areas.

(b) Single-family attached dwellings may be built in clusters of two (2) and three (3) contiguous attached units, however, no more than fifty percent (50%) of such contiguous dwelling units shall be of groups of three (3) units. Moreover, no more than two (2) contiguous single-family attached dwellings shall be built with the same front line. The required difference in front lines shall be a minimum of three (3) feet. In addition, there shall be a minimum separation of twenty (20) feet between groups of single-family attached dwellings.

(c) Each single-family attached dwelling shall provide not less than six hundred (600) square feet of yard space exclusive of private access ways and off-street parking. If the yard space is divided, one (1) space shall contain not less than four hundred (400) square feet and the other space shall contain not less than two hundred (200) square feet.

(d) Every or detached garage shall provide a minimum interior space nine (9) feet wide by nineteen (19) feet long for each motor vehicle stored or intended to be stored.

Section 23-72.11. Dimensional Regulations for Multiple-Family Dwellings. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §14, 10-5-2004[3]]

(a) *Minimum Lot Size.* Ten thousand (10,000) square feet per multiple-family dwelling, with a minimum of two thousand five hundred (2,500) square feet per dwelling unit.

(b) *Minimum Frontage.* One hundred (100) feet.

(c) *Minimum Lot Depth.* One hundred (100) feet.

(d) *Minimum Front Yard.* Thirty (30) feet.

(e) *Minimum Side Yard.* Fifteen (15) feet; five (5) feet for accessory buildings.

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[3]. **Editor's Note — Ord. no. 1795 §14, adopted October 5, 2004, repealed section 23- 72.11 "dimensional regulations for detached single-family dwellings on non- traditional lots" in its entirety and renumbered sections 23-72.12 to 23-72.14 as 23-72.11 to 23-72.13. Former section 23-72.11 derived from ord. no. 1633 §4, 9-17-2002; ord. no. 1692 §4, 5-20-2003.**

(f) *Minimum Rear Yard.* Twenty-five (25) feet for principal buildings; five (5) feet for accessory buildings, except for attached or detached garages abutting an alley that shall require no setback.

(g) *Maximum Building Height.* No residential building shall exceed three (3) stories or forty-five (45) feet in height.

(h) *Multiple-Family Buildings.* There may be more than one (1) multiple-family building on a lot. In such cases, the buildings shall be a minimum of thirty (30) feet apart, except where two (2) side walls without windows face each other in which case the separation distance may be reduced to twenty (20) feet.

(i) *Maximum Building Coverage.* Thirty percent (30%).

Section 23-72.12. Dimensional Regulations for Non-residential Uses. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §14, 10-5-2004]

(a) *Minimum Lot Size.* Twenty thousand (20,000) square feet.

(b) *Minimum Lot Frontage.* Eighty (80) feet.

(c) *Minimum Lot Depth.* .One hundred (100) feet.

(d) *Minimum Front Yard.* Thirty (30) feet.

(e) *Minimum Side Yard.* Ten (10) feet; five (5) feet for accessory buildings.

(f) *Minimum Rear Yard.* Twenty-five (25) feet for principal buildings; five (5) feet for accessory buildings.

(g) *Maximum Building Height.* Non-residential structures may be erected to a height not exceeding fifty (50) feet when the front, side and rear yards are increased an additional two (2) feet for each foot exceeding thirty-five (35) feet in height; provided, that no structure shall be erected to a height that would encroach into or through any established public or private airport approach plan prepared according to the criteria established by the Federal Aviation Administration.

(h) *Maximum Building Coverage.* Thirty percent (30%).

(i) *Buffer Yards.* Buffer yards shall be provided as required by the City. Said buffer yards shall be landscaped and provided with other screening devices and devoted entirely to landscape material, including trees, bushes, grasses, fences, walls and berms.

Section 23-72.13. Buffer Yards. [Ord. No. 1633 §4, 9-17-2002; Ord. No. 1795 §14, 10-5-2004]

Any tract of land abutting a single-family residential zoning district, except those tracts devoted to detached single-family dwellings, shall provide a buffer yard of twenty (20) feet adjacent to such single-family district. Said buffer yard shall be landscaped and provided with other screening devices and devoted entirely to landscape material, including trees, bushes, grasses, fences, walls and berms.

Section 23-72.14. Development Plan and/or Plat Required. [Ord. No. 1795 §15, 10-5-2004]

No application for rezoning of a parcel to this zoning district classification may be considered without being accompanied by a subdivision plat and/or site plan depicting the manner in which the property is to be developed including, but not limited to, lot and/or structure numbers, size and location; street locations; park size and location; common ground size and location; storm water management facilities; and buffers. Any proposed deviations from that which is approved in connection with rezoning requests must be authorized by the Board of Aldermen following receipt of a recommendation from the Planning and Zoning Commission.

ARTICLE VIII
"LLRD" Large Lot Residential District

[Ord. No. 646 §2]

The regulations of this district are supplemented and qualified by additional general regulations appearing elsewhere in this Chapter.

Section 23-80. Permitted Uses. [Ord. No. 646 §2; Ord. No. 680 §1; Ord. No. 1194 §1, 9-19-1995; Ord. No. 1488 §15, 10-17-2000; Ord. No. 1975 §1, 6-5-2007]

(a) Single-family dwellings.

(b) Public and private not-for-profit parks, parkways and playgrounds.

(c) Golf courses, not including miniature courses or practice driving tees.

(d) Farms and truck gardens.

(e) Public or private elementary and secondary schools.

(f) Churches.

(g) Local public utility facilities.

(h) (Reserved)

(i) Day care homes.

(j) Accessory buildings, land uses and activities customarily incident to above uses (b) through (g).

(k) Accessory buildings customarily incident to single-family dwellings, limited to a maximum of four (4), one (1) of which may be an accessory dwelling unit not to exceed one thousand two hundred fifty (1,250) square feet in size occupied by a member of the same family as the principal single-family dwelling unit. Land uses and activities customarily incident to single-family dwellings.

(l) Home occupation.

Section 23-81. Special Uses. [Ord. No. 646 §2; Ord. No. 680 §2; Ord. No. 1194 §1, 9-19-1995; Ord. No. 1298 §1, 7-15-1997; Ord. No. 1503 §1, 1-2-2001; Ord. No. 1815 §2, 1-18-2005; Ord. No. 2021 §2, 1-2-2008]

(a) Sewage treatment plants, for all uses other than for a single-family dwelling unit.

(b) Temporary buildings for use incidental to residential construction.

(c) Cemeteries and mausoleums.

(d) Riding stables.

(e) Greenhouses and plant nurseries, not including any structure used for commercial purposes.

(f) Nursing homes.

(g) Detached garage with dwelling unit above pursuant to provisions contained in Section 23-165(b).

(h) Not-for-profit private clubs and recreational land uses.

(i) Retreats owned and operated by religious, educational or other not-for-profit institutions.

(j) Hospitals.

(k) Libraries.

(l) Nursery schools and day nurseries.

(m) Fire stations.

(n) Private stables.

(o) State of Missouri regulated day care homes in which care is given to between five (5) and ten (10) people.

(p) Telecommunications facilities, subject to additional provisions contained in this Chapter.

(q) Summer day camps.

Section 23-82. Height and Setback Requirements. [Ord. No. 646 §2; Ord. No. 680 §3; Ord. No. 1237 §§1 — 3, 7-16-1996]

(a) No residential structure shall exceed two and one-half (2½) stories or thirty-five (35) feet.

(b) Accessory structures to single-family dwellings shall not exceed twenty (20) feet in height. All accessory structures shall maintain minimum rear and side yard setbacks of twenty (20) feet. Such structures may receive consideration for a greater height if approved under the special use permit process. If such additional height is approved, the subject accessory structure must maintain an additional one (1) foot of side and rear setback for each additional foot in height over twenty (20) feet.

(c) Any non-residential structure may be erected to a height not exceeding seventy-five (75) feet when the front, side and rear yards are increased an additional two (2) feet for each foot exceeding thirty-five (35) feet in height; provided, that such exceptions shall not be permitted where they would conflict with any existing ordinances of the City or other governmental regulations regarding the height of structures surrounding airports, landing fields or landing strips.

Section 23-83. Lot Area, Lot Dimension and Yard Requirements. [Ord. No. 646 §2; Ord. No. 680 §4; Ord. No. 1225 §§1-2, 5-21-1996; Ord. No. 1488 §16, 10-17-2000; Ord. No. 1649 §1, 10-1-2002; Ord. No. 1975 §2, 6-5-2007]

(a) Farm buildings shall be situated on tracts of land providing at least three (3) acres of land area.

(b) Residences shall be situated on tracts of land providing at least three (3) acres of lot area for each residence; except, that any lot or tract of record on March 16, 1982, which contains less area may be used as a site for one (1) single-family residence together with customary accessory structures and uses.

(b) No new lots shall be created of less than three (3) acres in area in this district.

(c) Private stables and riding stables shall be situated on tracts of land providing at least three (3) acres of land area. No stable shall be located less than two hundred (200) feet from any dwelling on an adjoining lot or seventy-five (75) feet from the common property line, whichever is greater.

(d) Elementary schools shall be situated on tracts of land providing at least five (5) acres. Secondary schools shall be situated on tracts of land providing at least twenty (20) acres.

(e) Churches shall be situated on tracts of land providing at least three (3) acres.

(f) Fire stations, nursery schools and day nurseries shall be situated on tracts of land providing at least one-half (½) acre.

(g) Libraries shall be situated on tracts of land providing at least two (2) acres.

(h) All other permitted land uses in this district, except local public utility facilities, shall be situated or conducted on tracts of land at least five (5) acres in area, except as may be clearly indicated otherwise by the context of these regulations.

(i) Except as otherwise provided in this Section, all special land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area. However, the Board of Aldermen, when approving a special land use, may allow the establishment of such use on tracts of land less than five (5) acres where the developments and uses contemplated are deemed consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses of the district; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; and are deemed essential or desirable to preserve and promote the public health, safety and general welfare of the City; provided however, that the minimum tract area for such

special developments and uses shall not be less than twenty thousand (20,000) square feet.

(j) Every lot shall have a minimum frontage of two hundred (200) feet.

(k) No structure shall be erected within forty (40) feet of any public roadway right-of-way line. Farm buildings shall not be located within one hundred (100) feet of any property line, however, approval for a farm building setback of less than one hundred (100) feet but not less than twenty (20) feet may be sought by means of the City's special use permit process.

(l) There shall be a rear yard having a depth of not less than twenty percent (20%) of the depth of the lot; provided, that such rear yard need not exceed thirty (30) feet, except as otherwise provided in this Chapter.

(l) On interior lots there shall be a side yard on each side of a building having a width of not less than ten percent (10%) of the width of the lot; provided, that such side yards need not exceed twenty (20) feet in width nor shall each side yard have a minimum width of not less than ten (10) feet except as otherwise provided in this Chapter.

(l) On corner lots, the side yard regulations shall be the same as for interior lots except in the case of reversed frontage, where the corner lot faces an intersecting street. In this case there shall be a side yard on the street side of the corner lot of not less than fifty percent (50%) of the front yard required on the lots in the rear of such corner lot and no accessory building on the corner lot shall project beyond the front yard line of the lots in the rear; provided, that this regulation shall not be so interpreted as to reduce the buildable width, after providing the required interior side yard, of a corner lot facing an intersecting street, and of record on March 16, 1982, to less than twenty-eight (28) feet, nor to prohibit the erection of any accessory building where this regulation cannot be reasonably complied with.

(m) The total square footage for detached accessory structures to single-family dwellings shall not exceed a maximum square footage floor area under roof of two percent (2%) of the square footage of the parcel on which the detached accessory structure(s) is/are to be operated, however, as authorized with possible conditions of approval by the Board of Aldermen following a recommendation by the Planning and Zoning Commission, such total square footage may be allowed to exceed two percent (2%) but not exceed four percent (4%) of the square footage of the subject parcel. If the total under roof square footage of all such structures exceeds five thousand (5,000) square feet, regardless of the above stated under roof percentage, approval for same must be sought by means of the City's special use permit process.

(n) *Corner Lot Front Yard Detached Garages.* The Board of Aldermen may authorize a detached garage to be constructed and operated within the front yard of a corner lot on parcels a minimum of one-half (½) acre in size, subject to the following process: [Ord. No. 2283 §1, 12-17-2013; Ord. No. 2298 §§1,2, 5-6-2014]

(1) *Application.* An application shall be made to the Board of Aldermen which must include:

a. The applicant's name and signature;

b. Subject address;

c. Plot plan depicting the location of the proposed detached garage and location of existing structures on the subject property.

(2) *Application Review*. The Board of Aldermen shall give consideration to the application based on the location, size and height of the proposed detached garage and other site specific criteria, including, but not limited to the following:

a. That the detached garage shall not create a traffic or safety hazard to the subject or adjacent properties; and

b. That the detached garage shall not substantially impact stormwater conditions; and

c. That the detached garage shall not negatively affect the character or general welfare of the neighborhood.

(3) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of the proposed detached garage and the date of the meeting at which the application will be considered.

Section 23-84. (Reserved) [Repealed by Ordinance No. 930 §1]

Section 23-85. Off-Street Parking Requirements. [Ord. No. 646 §2]

All uses shall be required to provide for off-street parking in accordance with Article XV of this Chapter.

ARTICLE IX
"C" Commercial District Regulations

[Ord. No. 646 §2]

The "C" Commercial District encompasses areas wherein may be located such stores and service facilities as will provide a wide range of goods and services. Within this district it shall be the purpose of these regulations to facilitate the establishment of conditions suitable for the operation of businesses catering to the general public. The regulations of this district are supplemented and qualified by additional general regulations appearing elsewhere in this Chapter.

Section 23-90. Permitted Uses. [Ord. No. 646 §2; Ord. No. 756 §1; Ord. No. 769 §1; Ord. No. 947 §1; Ord. No. 1265 §1, 11-19-1996; Ord. No. 1346 §1, 3-17-1998; Ord. No. 1488 §17, 10-17-2000]

(a) Stores and shops.

(b) Enclosed markets.

(c) Offices, banks and other financial institutions.

(d) Service facilities restricted to any of the following areas:

(1) Barber and beauty shops.

(2) Catering establishments.

(3) Dressmaking and tailor shops.

(4) Dry-cleaning and pick-up and delivery establishments.

(5) Shoe repair.

(6) Electrical contracting and sales.

(7) Electronic and other electrical equipment repair.

(8) Limousine service.

(9) Messenger and telegraph service.

(10) Photo studio or gallery.

(11) Plumbing, air conditioning, heating equipment sales and repairs.

(12) Print shop.

(13) Day care home.

(14) Laundry establishments employing less than five (5) persons on the premises.

LAUNDRY ESTABLISHMENT — An establishment providing for the cleaning of textiles, fabrics, garments, or other articles as a business or commercial enterprise by the use of laundering equipment, washing and drying units, designed primarily to accommodate individual or family-sized washing loads of the type, or similar to the type, designed for self-service use by the insertion of coins, whether the units are operated by the public on a self-service basis or by an attendant or operated by the insertion of coins or otherwise.

(e) Restaurants, not including drive-in, drive-thru or curb service.

(f) Libraries, clubs, meeting rooms and auditoriums.

(g) Churches.

(h) Automobile parking lots and garages.

(i) Mortuaries.

(j) Fire stations, Police stations, civic centers and other governmental office buildings.

(k) Local public utility facilities.

(l) (Reserved)

(m) Schools.

(n) In shopping centers containing a minimum area of five hundred thousand (500,000) square feet, a movie theatre including any ancillary uses normally associated with contemporary movie theatre designs shall be a permitted use.

Section 23-91. Special Uses. [Ord. No. 646 §2; Ord. No. 756 §2; Ord. No. 764 §1; Ord. No. 769 §2; Ord. No. 987 §1, 5-7-1991; Ord. No. 1029 §1, 7-21-1992; Ord. No. 1221 §1, 4-16-1996; Ord. No. 1274 §1, 2-4-1997; Ord. No. 1278 §1, 3-18-1997; Ord. No. 1346 §1, 3-17-1998; Ord. No. 1472 §1, 8-15-2000; Ord. No. 1503 §1, 1-2-2001; Ord. No. 1582 §1, 1-15-2002; Ord. No. 1650 §1, 10-1-2002; Ord. No. 1892 §1, 2-21-2006; Ord. No. 1940 §1, 9-19-2006; Ord. No. 1974 §§1 — 2, 6-5-2007; Ord. No. 2005 §1, 10-16-2007; Ord. No. 2017 §1, 12-4-2007; Ord. No. 2223 §1, 7-3-2012]

(a) Hotels and motels.

(b) Public campgrounds.

(c) Sales rooms, show rooms and display lots for the sale and rental of new and/or used automobiles, trucks, farm equipment, manufactured and mobile homes, recreational vehicles and other recreational equipment, subject to provisions including those set forth in Section 23-91.2.

(d) Recreational uses and activities, including theaters and bowling alleys. As to permitted uses in shopping centers containing a minimum area of five hundred thousand (500,000) square feet, a movie theatre including any ancillary uses normally associated with contemporary movie theatre designs shall be a permitted use. (See Section 23-90(n).)

(e) Mobile home trailer coach parks.

(f) Hospitals and clinics.

(g) Service stations and repair shops.

(h) Sewage treatment plants.

(i) Animal hospitals and clinics.

(j) Retail sales of alcoholic beverages not in conjunction with a restaurant, cafeteria or supermarket.

(k) Nursing homes.

(l) Apartment dwelling units in buildings designed for and occupied primarily for commercial purposes.

(m) Outdoor storage and display of merchandise, material and equipment, excluding junk yards.

(n) Radio and television transmission towers.

(o) Unenclosed or open-air markets.

(p) Restaurants with curb service.

(q) Nursery schools and day nurseries.

(r) Dog grooming salon.

(s) Car wash.

(t) Self-storage mini-warehouses.

(u) Contractor's office with inside storage only.

(v) Fabrication job shop utilizing high technology machinery which does not create waste products or other by-products impacting public health and safety.

(w) Plant nurseries and greenhouses.

(x) Lumber yards.

(y) Towing service.

(z) Stores and shops which sell pets and pet supplies as a primary business.

(aa) Telecommunications facilities, subject to additional provisions contained in this Chapter.

(bb) Owner or leaseholder residential use of property ancillary to a principal commercial use.

(cc) Solid and hazardous waste industry related uses including:

(1) Solid and hazardous waste facility administrative or operations offices.

(2) On-site and off-site parking of waste industry vehicles or equipment.

(3) On-site and off-site storage of waste industry vehicles or equipment.

(4) Recyclable material collection centers or recycling reclamation facilities.

(5) Commercial yard waste or composting operations.

(6) Trash transfer stations.

(7) Landfill facilities.

(8) Waste processing plants.

(9) Waste separation facilities.

(10) Waste hauling facilities.

(11) Hazardous material mitigation facilities.

(dd) Any facility with a drive-through service component.

(ee) Auction activities.

(ff) Residential uses and structures.

(gg) Indoor firing range.

(hh) Microbreweries. [Ord. No. 2295 §1, 4-1-2014]

Section 23-91.1. Special Use — Off-Site Parking and Storage. [Ord. No. 1264 §§2 — 3, 11-19-1996]

(a) *Definitions.* For purposes of these regulations, the following words shall have the meanings set out herein:

EQUIPMENT — Any residential, commercial or industrial class self-propelled or wheeled towable machinery used in construction, farming, lawn and garden care, commercial operations or industrial operations.

MOTOR VEHICLE — Any motorized, self-propelled automobile, motorcycle, truck or recreational vehicle.

OFF-SITE PARKING OR STORAGE — The parking or storage of motor vehicles, trailers or equipment by or on behalf of the owner or operator of same on property or a portion thereof not owned, leased or rented by the owner or operator of said motor vehicle, trailer or equipment.

TRAILER — An open or enclosed transport or container used for the movement or storage of goods, materials, supplies, tools, equipment, merchandise, motor vehicles, boats or animals.

(b) *General Provisions.*

(1) The Planning and Zoning Commission and Board of Aldermen may give consideration to applications for off-site parking or storage under the special use permit provisions on property that is not residentially zoned.

(2) The owner or operator of the land on which the off-site parking or storage activity is being conducted shall be the applicant, not the owner or operator of the motor vehicle, trailer or equipment being stored on same.

(3) Consideration criteria will be reviewed a minimum of annually, and if an inspection of property and the motor vehicles, trailers or equipment located thereon results in a determination that any standards are lacking, City staff may place the applicant on notice and request review of the special use authority, with the possible outcome of special use permit rescission by the Board of Aldermen.

(4) The assessment and professional opinion of City staff shall be the factor in determining if an activity presently being conducted or to be proposed is not in conformance with these provisions. The Planning and Zoning Commission shall be the appeals body for such a staff determination.

(5) All commercial zoning district areas utilized for off-site parking or storage, and ingress/egress thereto, shall be hard surfaced with concrete or asphalt in conformance with City specifications. All light industrial or greater district areas utilized for off-site parking or storage, and ingress/egress thereto, shall

be surfaced with a minimum of six (6) inches of rolled gravel in conformance with City specifications.

(c) *Off-Site Parking Or Storage Consideration.* In addition to normal factual determination criteria, following are examples of factors which may be examined or conditions which may be imposed during the course of application consideration:

(1) In instances where there is an existing business, the degree to which the subject motor vehicles, trailers or equipment can practically, reasonably and economically be parked on property the owner or operator of same owns, leases or rents.

(2) Existing and/or proposed lot improvements and topographical conditions.

(3) Impact on adjacent properties (property values, aesthetics, etc.).

(4) Effects on general community standards (passersby, etc., not immediately adjacent to the subject site).

(5) What can be stored in a particular location (type, number, etc.).

(6) Degree to which it might create or exacerbate hazardous or unsanitary conditions.

(7) Creation or aggravation of general nuisances such as visual, noise, odor, etc.

(8) Ongoing lot and/or vehicle/trailer maintenance standards.

(9) Landscaping/screening/buffer requirements.

(10) Ingress/egress and general traffic impact standards.

(11) Proximity to residential zoning districts or residentially utilized property in other zoning districts.

(12) Proximity to other businesses and/or property lines and/or streets.

(13) No wrecked, derelict, or otherwise unsightly or unsafe motor vehicles, trailers or equipment.

(d) All moratoriums on prosecution shall expire within sixty (60) days of November 19, 1996. There shall be no legal non-conformities created as a result of this Section unless an individual or entity can present evidence that they are conducting their particular off-site parking or storage activity with official, documentable City authority.

Section 23-91.2. Special Use — Motor Vehicle Sales Display Lot. [Ord. No. 1650 §2, 10-1-2002; Ord. No. 1941 §1, 9-19-2006; Ord. No. 2065 §1, 10-21-2008; Ord. No. 2082 §1, 4-21-2009]

(a) In addition to site or development specific conditions which may be imposed in connection with the consideration of a special use permit for the operation of a

motor vehicle sales display lot, the following are minimum criteria which must be observed:

(1) Only fully operable vehicles may be displayed for sale; no wrecked or derelict vehicles may be stored or displayed for sale.

(2) Vehicles must be parked on a City-approved concrete or asphalt surface — displaying vehicles on grass or other non-approved surfaces is prohibited.

(3) Vehicles may not be displayed on driveways, aisles, customer and employee parking areas or other areas not designated for the display of vehicles.

(4) The display of vehicles shall be confined to the property for which a special use permit has been authorized — the use of adjoining properties or road rights-of-way is prohibited.

(5) No vehicle repairs may be conducted outdoors with the exception of vehicles of such size that indoor repairs are not possible, or when such repairs may create dangerous or injurious conditions.

(6) There shall be no storage of vehicles on the display lot which are not offered for sale.

(7) No vehicle maintenance or repair equipment may be stored outdoors.

(8) No car parts may be stored outdoors.

(9) Display lot lighting plans must be approved by the City. Lighting must be directed and/or backshielded so as to illuminate only the subject property and not cause a visual nuisance or traffic hazard. No string lighting shall be permitted with the exception of such lighting operated in connection with holiday displays.

(10) With the exception of model year, price, financing and required State and Federal disclosure information, no signage may be displayed on vehicles.

(11) Hoods, trunks and doors of vehicles shall remain closed at all times, except when inspecting or entering vehicles in connection with the possible sale of same.

(12) External loudspeaker systems may not be operated adjacent to residential zoning districts and may not exceed a measured sixty (60) decibels at any property line.

(13) Every lot or tract of land proposed to be utilized for a motor vehicle sales display lot shall have an area, exclusive of any area dedicated as a public roadway, of not less than ten thousand (10,000) square feet.

(14) No motor vehicle sales display lot may be located within one thousand (1,000) feet of another such facility with the exception of those not situated along the same road frontage and with the exception of sales lots displaying solely

motorcycles or public safety vehicles and related apparatus which shall not be required to have such separation from other motor vehicle display lots.

(b) Any motor vehicle sales display lot authorized by the City as of October 1, 2002 shall be considered a legal non-conforming use with respect to compliance with Sections 23-91.2 (13) and 23-91.2 (14).

Section 23-92. Height Limitations. [Ord. No. 646 §2; Ord. No. 1301 §1, 8-19-1997; Ord. No. 1347 §1, 3-17-1998; Ord. No. 1488 §18, 10-17-2000]

(a) With the exception of radio and television transmission towers, no structure shall exceed seventy-five (75) feet in height, unless otherwise provided for in this Section.

(b) Any structure erected to a height in excess of forty-five (45) feet shall have the front, side and rear yards increased an additional two (2) feet for each foot exceeding forty-five (45) feet in height; provided, that such exceptions shall not be permitted where they would conflict with any existing ordinances of the City, or other governmental regulations regarding the height of structures surrounding airports, landing fields or landing strips; provided further, that in the case of a radio and television transmission tower which is certified by a qualified engineer to be designed to exceed the Electronic Industries Association (EIA) Standards RS-222 established for this geographic area, the setback requirements may be reduced by one (1) foot for each one (1) mile per hour increase above the EIA standard at the City's discretion, but in no event shall the setback exceed a twenty-five percent (25%) reduction from the required setback. The owner or operator of the subject tower shall indemnify the City against all liability and property damage claims in conjunction with the construction and operation of the subject tower.

Section 23-93. Lot Area, Lot Dimension and Yard Requirements. [Ord. No. 646 §2; Ord. No. 670 §1; Ord. No. 806 §1; Ord. No. 1016 §1, 3-3- 1992; Ord. No. 1337 §1,2-17-1998; Ord. No. 1488 §19, 10-17-2000; Ord. No. 1617 §1, 6-4-2002; Ord. No. 1653 §§1-2, 10-15-02; Ord. No. 2071 §1,12-16-08; Ord. No. 2212 §1, 5-1-2012]

(a) Every lot or tract of land shall have an area, exclusive of any area dedicated as a public roadway, comprising not less than ten thousand (10,000) square feet; every lot or tract of land shall have a width of not less than fifty (50) feet; except, that any lot or tract of record on March 16, 1982, which contains less area or is of lesser width than herein specified may be used as a site for any permitted use.

(b) Churches shall be situated on tracts of land providing at least one-half (½) acre in area.

(c) Hospitals shall be situated on tracts of land providing at least five (5) acres in area.

(d) No structure shall be erected closer than twenty-five (25) feet of any public roadway right-of-way line, with the exception of City authorized boundary walls or fences, provided that as determined by the Building Commissioner, such boundary wall or fence erection does not create safety or traffic hazards. The Board of Aldermen may approve exceptions to this requirement along South Central Avenue

between West Frisco Avenue and Dreyer Avenue for purposes of maintaining setbacks consistent with pre-existing structures to maintain the character of the area.

(e) When the side or rear yard of a commercial lot abuts any property located in the "R-1", "R-2", "R-3", "R-4", "R-5A", "R-5B" or "R-5C" zoning districts, a minimum twenty-five (25) foot wide buffer yard shall be established and maintained along all such rear and side property lines. The buffer yard shall contain landscaping as approved by the City, as well as a louvered fence, solid fence or wall a minimum of five (5) feet in height, except where sight distance regulations at street intersections require other arrangements. The use of topographic features or landscaping in lieu of fences or walls where such alternates will achieve a comparable effect may be authorized by the City. The Board of Aldermen may approve certain exceptions and/or adjustments to the requirements under this Section based on practical difficulties including topography or existing site improvements or structures.

(f) Mobile home trailer coach parks shall be subject to the following requirements:

(1) Mobile home trailer coach parks shall be situated on tracts of land providing at least fifty (50) acres with a minimum width and depth of eight hundred (800) feet;

(2) Each border of a trailer park shall be at least six hundred (600) feet from any permanent residence in the City located outside the park, unless a majority of property owners of the area within six hundred (600) feet of the trailer park consent in writing to the establishment of such park;

(3) Each trailer coach space shall have a minimum area of seven thousand five hundred (7,500) square feet, with minimum dimensions of sixty (60) feet width and one hundred twenty (120) feet depth;

(4) Minimum setback requirements for each trailer coach space shall be the following:

(a) Thirty (30) feet for front yard;

(b) Twenty (20) feet for rear yard;

(c) Ten (10%) percent of lot width for each side yard;

(5) Each mobile home trailer coach park shall provide a recreational area that shall have a minimum area of eighty thousand (80,000) square feet plus three hundred fifty (350) square feet per trailer coach space in the parks. Recreational facilities shall be provided as set forth in Chapter 20A, Article II of this Code.

(6) All provisions contained in Chapter 20A, Article II of this Code, entitled "Mobile Home Trailer Coach Park Regulations" shall be strictly complied with by each applicant and operator of a mobile home trailer coach park in the City.

(g) Campgrounds shall be situated on tracts of land providing at least twenty (20) acres.

(g) Each campsite shall have a minimum of two thousand (2,000) square feet in area not including streets, but the density of the campground shall not exceed fifteen (15) campsites per acre.

(h) Landscape buffers and screening of outdoor storage areas.

(1) A landscape buffer of twenty (20) feet shall be established and maintained adjacent and parallel to all Missouri Highway and Transportation Department rights-of-way. Landscaping areas in front of buildings and in parking lot islands may substitute for up to one-half (½) of the required landscape buffer. The landscape buffer areas shall contain evergreen or ornamental trees and shrubs approved by the City. Outdoor display areas shall not encroach into the landscape buffer. Landscape buffers consistent with the topographic and aesthetic needs of each City and private roadway shall also be established and maintained along City of Eureka rights-of-way or private road easement. As approved by the City and the Missouri Department of Transportation, landscape buffers required under this Section may be located in whole or in part in State rights-of-way. The Board of Aldermen may approve certain exceptions and/or adjustments to the landscape buffer requirements under this Section based on practical difficulties including topography or existing site improvements or structures.

(2) Outdoor storage areas shall be screened from public view through use of earth berms, fencing or landscaping or a combination thereof. Fencing and landscaping used for screening of outdoor storage areas shall be decorative in nature and maintained in an acceptable manner. Decorative fences do not include chain link fences, with or without slats, however, the Board may give consideration to the use of a slatted chain link fence if such was in operation prior to December 16,2008. Outdoor storage areas shall have a minimum surface covering of six (6) inches of rolled gravel.

(3) A site plan illustrating the landscape buffers and screening of outdoor storage areas shall be submitted to the Building Commissioner, drawn to a minimum of one (1) inch equals one hundred (100) feet scale, which shows all property lines, buildings, storage areas, easements, roadways and existing trees, in addition to proposed screening materials. For purposes of meeting presentations, site plans may be submitted drawn to a scale of one (1) inch equals two hundred (200) feet. The site plan shall be reviewed by the Planning and Zoning Commission with a recommendation sent to the Board of Aldermen for final review and approval.

(4) Businesses in existence prior to March 3, 1992, (the effective date of this ordinance) are encouraged to meet the requirements in paragraphs (1) and (3) above.

(5) Outdoor storage areas in existence prior to March 3, 1992, (the effective date of this ordinance) are encouraged to meet the requirements in paragraphs (2) and (3) above.

(6) All shade trees shall be a minimum of eight (8) feet and the evergreen trees six (6) feet in height.

Section 23-94. (Reserved) [Repealed by Ordinance No. 930 §1]

Section 23-95. Off-Street Parking Requirements. [Ord. No. 646 §2]

All uses shall be required to provide for off-street parking in accordance with article XV of this chapter.

ARTICLE X
"PC" Planned Commercial District

Section 23-100. Purpose. [Ord. No. 646 §2]

The regulations contained within this article are those of the "PC" Planned Commercial District, to be designated "PC" on the city zoning map. It is the purpose of these regulations to allow or assure the establishment of combinations of developments or uses for which no provision is made in the "C" Commercial District or where it is appropriate or desirable to make special provision for specific commercial developments to occur through approval of detailed site plans in conjunction with appropriate development conditions to ensure consistent and compatible uses or use groups in character with the "Eureka City Plan."

Section 23-101. Establishment. [Ord. No. 646 §2; Ord. No. 1484 §1, 10-3-2000]

A Planned Commercial District may be established on a tract of land through application and approval by the Board of Aldermen in accordance with procedures contained in Section 23-182; provided, that a final development plan is subsequently approved by the Planning and Zoning Commission and recorded by the petitioner in the office of the Recorder of Deeds of the County.

A Planned Commercial District may be established by ordinance of the Board of Aldermen on its own motion where the Board has determined that a particular tract or area would be best developed for a particular commercial use, but because of potential conflict with adjoining uses, existing or projected, a greater degree of control than is possible under the "C" Commercial District is necessary to protect the general welfare or assure the implementation of an area-wide planning program.

Section 23-102. Permitted Land Uses and Developments. [Ord. No. 646 §2; Ord. No. 1484 §1, 10-3-2000]

In a Planned Commercial District, uses which may receive consideration shall be the same as those set forth as permitted uses or those requiring a special use permit in the "C" Commercial District along with related or accessory uses as may be specifically authorized by the Board of Aldermen. However, the specific ordinance authorizing the establishment of a Planned Commercial District may further limit the uses permitted on the tract. One (1) or more special uses may be considered in connection with the establishment of a Planned Commercial District, however, such proposed special uses

must be specifically applied for at the time of the filing of the proposed Planned Commercial District application. Special uses may receive subsequent consideration within a Planned Commercial District by separate application under the normal consideration process set forth in Section 23-182 of this Code.

Section 23-103. Lot Area and Yard Requirements. [Ord. No. 646 §2; Ord. No. 1016 §1,3-3-1992; Ord. No. 1337 §1, 2-17-1998; Ord. No. 1370 §1, 8-18-1998; Ord. No. 1484 §1,10-3-2000; Ord. No. 1653 §3, 10-15-2002; Ord. No. 1875 §1, 12-6-2005; Ord. No. 1931 §1, 7-18-2006]

(a) Every lot or tract of land shall have an area, exclusive of any area dedicated as a public roadway, comprising not less than ten thousand (10,000) square feet; every lot or tract of land shall have a width of not less than fifty (50) feet; except, that any lot or tract of record on March 16, 1982, which contains less area or is of lesser width than herein specified may be used as a site for any permitted use.

(b) Yard area for structure and setback for parking areas and lighting shall be established by the conditions of the particular Planned Commercial District ordinance so as to ensure consistency or compatibility with adjoining developments or zoning districts with the following exceptions, (1) no structure shall be permitted within fifteen (15) feet of any property line adjoining a residential zoning district, and (2) no parking area shall be permitted within fifteen (15) feet of any property line adjoining a residential zoning district unless it is evidenced that there is a demonstrable hardship associated with the subject property and the City determines that the surrounding properties would not be adversely impacted as a result of pre-existing or post-development conditions such as elevation differences, natural or developed buffering or fencing, in which case the City may give consideration to such a parking area setback of not less than five (5) feet. Any structure exceeding forty-five (45) feet in height shall maintain a setback from such property line, in addition to the minimum fifteen (15) feet, of two (2) feet for each additional one (1) foot in height over forty-five (45) feet; additional setback distance may be imposed if deemed necessary or beneficial by the Board of Aldermen to protect the general welfare.

(c) *Landscape Buffers And Screening Of Outdoor Storage Areas.*

(1) A landscape buffer of twenty (20) feet shall be established and maintained adjacent and parallel to all Missouri Highway and Transportation Department rights-of-way. Landscaping areas in front of buildings and in parking lot islands may substitute for up to one-half (½) of the required landscape buffer. The landscape buffer areas shall contain evergreen or ornamental trees and shrubs approved by the City. Outdoor display areas shall not encroach into the landscape buffer. Landscape buffers consistent with the topographic and aesthetic needs of each City and private roadway shall also be established and maintained along City of Eureka rights-of-way or private road easement. As approved by the City and the Missouri Department of Transportation, landscape buffers required under this Section may be located in whole or in part in State rights-of-way. The Board of Aldermen may approve certain exceptions and/or adjustments to the landscape buffer requirements under this

Section based on practical difficulties including topography or existing site improvements or structures.

(2) Outdoor storage areas shall be screened from public view through use of earth berms, fencing, or landscaping, or a combination thereof. Fencing and landscaping used for screening of outdoor storage areas shall be decorative in nature and maintained in an acceptable manner. Decorative fences do not include chain link fences, with or without slats. Outdoor storage areas shall have a minimum surface covering of six (6) inches of rolled gravel.

(3) A site plan illustrating the landscape buffers and screening of outdoor storage areas shall be submitted to the Building Commissioner, drawn to a minimum of one (1) inch equals one hundred (100) feet scale, which shows all property lines, buildings, storage areas, easements, roadways, and existing trees, in addition to proposed screening materials. For purposes of meeting presentations, site plans may be submitted drawn to a scale of one (1) inch equals two hundred (200) feet. The site plan shall be reviewed by the Planning and Zoning Commission with a recommendation sent to the Board of Aldermen for final review and approval.

(4) Businesses in existence prior to March 3, 1992, (the effective date of this ordinance) are encouraged to meet the requirements in paragraphs (1) and (3) above.

(5) Outdoor storage areas in existence prior to March 3,1992, (the effective date of this ordinance) are encouraged to meet the requirements in paragraphs (2) and (3) above.

(6) All shade trees shall be a minimum of eight (8) feet and the evergreen trees six (6) feet in height.

Section 23-104. Height Limitations for Structures. [Ord. No. 646 §2]

Unless otherwise limited by the particular Planned Commercial District ordinance, the total permitted height of structures within the district shall be the same as is permitted in the "C" Commercial District.

Section 23-105. Off-Street Parking and Loading Requirements. [Ord. No. 646 §2; Ord. No. 1484 §1, 10-3-2000]

All uses shall be required to provide for off-street parking in accordance with Article XV of this Chapter.

Section 23-106. Minimum Performance Standards. [Ord. No. 646 §2; Ord. No. 1484 §1, 10-3-2000]

Minimum performance standards shall be established in the specific ordinance establishing the Planned Commercial District. Among the performance standards which may be established are criteria relating to vibration, noise, odor, smoke, toxic gases, emission of dirt, dust, ash or other particulate matter, radiation, glare and heat.

Section 23-107. (Reserved) [Repealed by Ordinance No. 930 §1]

Section 23-108. Procedures. [Ord. No. 646 §2]

See Section 23-182 for processing steps and requirements.

ARTICLE XI
"M-1" Light Industrial District Regulations

Section 23-109. Purpose. [Ord. No. 646 §2]

The "M-1" Light Industrial District encompasses land conducive to industrial development due to adequate transportation facilities, efficient land assembly, adequate topographic conditions and accessibility to adequate public utility facilities. The regulations of this district are supplemented and qualified by additional general regulations appearing elsewhere in this Chapter.

Section 23-110. Permitted Land Uses and Developments. [Ord. No. 646 §2; Ord. No. 909 §§2 — 3; Ord. No. 1488 §20, 10-17-2000]

(a) Manufacturing or fabrication of any commodity from semi-finished materials, except explosives or flammable gases or liquids.

(b) Processing or packing of food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering of fats and oils.

(c) Laundries and dry cleaning plants.

(d) Warehousing or wholesaling of manufactured goods; except, that explosives or flammable gases or liquids shall require a special use permit.

(e) Distribution plants.

(f) Research and testing laboratories and facilities.

(g) Public utility facilities.

(h) Police and fire stations.

(i) (Reserved)

(j) Truck, bus, rail and watercraft terminals.

(k) Railroad switching yards.

(l) Auto or truck repair.

(m) Machine, welding, sheet metal, plumbing and electrical shops.

(n) Lumber and construction material storage yards.

(o) Public or private offices or office buildings.

(p) Printing and engraving facilities.

(q) Plant nurseries and greenhouses.

(r) Accessory buildings, land uses and activities customarily incidental to any of the above uses.

Section 23-111. Special Land Uses and Developments. [Ord. No. 646 §2; Ord. No. 941 §2; Ord. No. 1198 §1, 11-7-1995; Ord. No. 1399 §1, 3-30-1999; Ord. No. 1503 §1, 1-2-2001; Ord. No. 1754 §1, 4-20-2004; Ord. No. 1892 §2, 2-21-2006; Ord. No. 2200 §1, 12-6-2011; Ord. No. 2223 §2, 7-3-2012]

(a) Radio, television and communication transmitting or relay towers and facilities.

(b) Service stations and repair shops.

(c) Manufacturing, warehousing or wholesaling of explosives or flammable gases and liquids.

(d) Airports, landing strips and heliports.

(e) Sewage treatment facilities.

(f) Restaurants.

(g) Gymnasiums, indoor swimming pools, indoor public or private handball and racquetball courts, and indoor public or private tennis courts.

(h) Recreational uses and activities.

(i) Display lots for the wholesale/retail sale of new and/or used motor vehicles including activities incidental to this use.

(j) Pet grooming salon.

(k) Telecommunications facilities, subject to additional provisions contained in this Chapter.

(l) Towing service.

(m) Solid and hazardous waste industry related uses including:

(1) Solid and hazardous waste facility administrative or operations offices.

(2) On-site and off-site parking of waste industry vehicles or equipment.

(3) On-site and off-site storage of waste industry vehicles or equipment.

(4) Recyclable material collection centers or recycling reclamation facilities.

(5) Commercial yard waste or composting operations.

(6) Trash transfer stations.

(7) Landfill facilities.

(8) Waste processing plants.

(9) Waste separation facilities.

(10) Waste hauling facilities.

(11) Hazardous material mitigation facilities.

(n) Equestrian facilities and uses including horse boarding, arena riding and hayrides.

(o) Public picnic areas.

(p) Public swimming pool facilities.

(q) Public campground facilities for short-term camping, including recreational vehicles.

(r) Indoor firing range.

Section 23-111.1. Special Use — Off-Site Parking and Storage. [Ord. No. 1264 §§2 — 3, 11-19-1996]

(a) *Definitions.* For purposes of these regulations, the following definitions shall apply:

EQUIPMENT — Any residential, commercial or industrial class self-propelled or wheeled towable machinery used in construction, farming, lawn and garden care, commercial operations or industrial operations.

MOTOR VEHICLE — Any motorized, self-propelled automobile, motorcycle, truck or recreational vehicle.

OFF-SITE PARKING OR STORAGE — The parking or storage of motor vehicles, trailers or equipment by or on behalf of the owner or operator of same on property or a portion thereof not owned, leased or rented by the owner or operator of said motor vehicle, trailer or equipment.

TRAILER — An open or enclosed transport or container used for the movement or storage of goods, materials, supplies, tools, equipment, merchandise, motor vehicles, boats or animals.

(b) *General Provisions.*

(1) The Planning and Zoning Commission and Board of Aldermen may give consideration to applications for off-site parking or storage under the special use permit provisions on property that is not residentially zoned.

(2) The owner or operator of the land on which the off-site parking or storage activity is being conducted shall be the applicant, not the owner or operator of the motor vehicle, trailer or equipment being stored on same.

(3) Consideration criteria will be reviewed a minimum of annually, and if an inspection of property and the motor vehicles, trailers or equipment located thereon results in a determination that any standards are lacking, City staff may place the applicant on notice and request review of the special use

authority, with the possible outcome of special use permit rescission by the Board of Aldermen.

(4) The assessment and professional opinion of City staff shall be the factor in determining if an activity presently being conducted or to be proposed is not in conformance with these provisions. The Planning and Zoning Commission shall be the appeals body for such a staff determination.

(5) All commercial zoning district areas utilized for off-site parking or storage, and ingress/egress thereto, shall be hard surfaced with concrete or asphalt in conformance with City specifications. All light industrial or greater district areas utilized for off-site parking or storage, and ingress/egress thereto, shall be surfaced with a minimum of six (6) inches of rolled gravel in conformance with City specifications.

(c) *Off-Site Parking Or Storage Consideration.* In addition to normal factual determination criteria, following are examples of factors which may be examined or conditions which may be imposed during the course of application consideration:

(1) In instances where there is an existing business, the degree to which the subject motor vehicles, trailers or equipment can practically, reasonably and economically be parked on property the owner or operator of same owns, leases or rents.

(2) Existing and/or proposed lot improvements and topographical conditions.

(3) Impact on adjacent properties (property values, aesthetics, etc.)

(4) Effects on general community standards (passersby, etc., not immediately adjacent to the subject site).

(5) What can be stored in a particular location (type, number, etc.)

(6) Degree to which it might create or exacerbate hazardous or unsanitary conditions.

(7) Creation or aggravation of general nuisances such as visual, noise, odor, etc.

(8) Ongoing lot and/or vehicle/trailer maintenance standards.

(9) Landscaping/screening/buffer requirements.

(10) Ingress/egress and general traffic impact standards.

(11) Proximity to residential zoning districts or residentially utilized property in other zoning districts.

(12) Proximity to other businesses and/or property lines and/or streets.

(13) No wrecked, derelict, or otherwise unsightly or unsafe motor vehicles, trailers or equipment.

(d) All moratoriums on prosecution shall expire within sixty (60) days of November 19, 1996. There shall be no legal non-conformities created as a result of this Section

unless an individual or entity can present evidence that they are conducting their particular off-site parking or storage activity with official, documentable City authority.

Section 23-112. Height Limitations. [Ord. No. 646 §2; Ord. No. 1883 §1, 1-3-2006]

With the exception of radio and television transmission towers, the maximum height of any structure shall not exceed forty (40) feet above the average finished ground elevation at the perimeter of the structure. Consideration may be given to a maximum structure height of up to one hundred (100) feet through the special use permit process.

Section 23-113. Lot Area, Open Area and Yard Requirements. [Ord. No. 646 §2; Ord. No. 1016 §1, 3-3-1992; Ord. No. 1337 §1, 2-17-1998; Ord. No. 1387 §1, 12-15-1998; Ord. No. 1488 §21, 10-17-2000; Ord. No. 1617 §2, 6-4-2002; Ord. No. 1653 §§4 — 5, 10-15-2002]

(a) There shall be no minimum lot area requirements in this district.

(b) Not more than fifty percent of the lot containing any use permitted in this district may be used for the open storage of raw material, finished goods or any other material.

(c) No structure shall be erected closer than thirty (30) feet of any public roadway right-of-way line, with the exception of City authorized boundary walls or fences, provided that as determined by the Building Commissioner, such boundary wall or fence erection does not create safety or traffic hazards.

(d) No structure shall be closer than ten (10) feet of any property line, however, when the side or rear yard of an industrial lot abuts any property located in the "R-1", "R-2", "R-3", "R-4", "R-5A", "R-5B", "R-5C" or commercial zoning districts, a minimum twenty-five (25) foot wide buffer yard shall be established and maintained along all such rear and side property lines. The buffer yard shall contain landscaping as approved by the City, as well as a louvered fence, solid fence or wall a minimum of five (5) feet in height, except where sight distance regulations at street intersections require other arrangements. The use of topographic features or landscaping in lieu of fences or walls where such alternates will achieve a comparable effect may be authorized by the City. The Board of Aldermen may approve certain exceptions and/or adjustments to the requirements under this Section based on practical difficulties including topography or existing site improvements or structures.

(e) *Landscape Buffers And Screening Of Outdoor Storage Areas.*

(1) A landscape buffer of twenty (20) feet shall be established and maintained adjacent and parallel to all Missouri Highway and Transportation Department rights-of-way. Landscaping areas in front of buildings and in parking lot islands may substitute for up to one-half (½) of the required landscape buffer. The landscape buffer areas shall contain evergreen or ornamental trees and shrubs approved by the City. Outdoor display areas shall not encroach into the landscape buffer. Landscape buffers consistent with the topographic and

aesthetic needs of each City and private roadway shall also be established and maintained along City of Eureka rights-of-way or private road easement. As approved by the City and the Missouri Department of Transportation, landscape buffers required under this Section may be located in whole or in part in State rights-of-way. The Board of Aldermen may approve certain exceptions and/or adjustments to the landscape buffer requirements under this Section based on practical difficulties including topography or existing site improvements or structures.

(2) Outdoor storage areas shall be screened from public view through use of earth berms, fencing, or landscaping, or a combination thereof. Fencing and landscaping used for screening of outdoor storage areas shall be decorative in nature and maintained in an acceptable manner. Decorative fences do not include chain link fences, with or without slats. Outdoor storage areas shall have a minimum surface covering of six (6) inches of rolled gravel. An applicant may propose on a site-specific basis, outdoor storage area fencing of alternate materials and/or configurations including chainlink fencing, which may be considered for approval by the Planning and Zoning Commission and Board of Aldermen based on criteria including, but not limited to, the proposed use of the subject property, adjacent uses, and adjacent zoning districts. Any authority relating to the use of alternate fence materials and/or configurations may include conditions of approval. If such authority is granted, it shall be subject to review and possible revocation upon changes in ownership and/or use.

(3) A Site Plan illustrating the landscape buffers and screening of outdoor storage areas shall be submitted to the Building Commissioner, drawn to a minimum of one (1) inch equals one hundred (100) feet scale, which shows all property lines, buildings, storage areas, easements, roadways, and existing trees, in addition to proposed screening materials. For purposes of meeting presentations, Site Plans may be submitted drawn to a scale of one (1) inch equals two hundred (200) feet. The Site Plan shall be reviewed by the Planning and Zoning Commission with a recommendation sent to the Board of Aldermen for final review and approval.

(4) Businesses in existence prior to March 3, 1992, (the effective date of this ordinance) are encouraged to meet the requirements in paragraphs (1) and (3) above.

(5) Outdoor storage areas in existence prior to March 3, 1992, (the effective date of this ordinance) are encouraged to meet the requirements in paragraphs (2) and (3) above.

(6) All shade trees shall be a minimum of eight (8) feet and the evergreen trees six (6) feet in height.

Section 23-114. Home Occupation. [Ord. No. 1194 §1, 9-19-1995]

A home occupation, as defined in Section 23-12 of this Chapter, and as amended, shall hereafter be designated to be a permitted use in all residentially utilized structures located in zoning districts "M-1" and "M-2".

Section 23-115. Off-Street Parking Requirements. [Ord. No. 646 §2]

All uses shall be required to provide for off-street parking in accordance with article XV of this chapter.

ARTICLE XII
"M-2" Heavy Industrial District Regulations

Section 23-119. Purpose. [Ord. No. 646 §2]

The "M-2" Heavy Industrial District encompasses land conducive to industrial development due to adequate transportation facilities, efficient land assembly, adequate topographic conditions and accessibility to adequate public utility facilities. Such areas may also contain certain mineral and other natural resources of which the extraction, processing, or both, may be conducted in a manner that will not create a hazard in the general community and will protect and preserve the public health, safety and general welfare. The regulations of this district are supplemented and qualified by additional general regulations appearing elsewhere in this chapter.

Section 23-120. Permitted Land Uses and Developments. [Ord. No. 646 §2; Ord. No. 1488 §22, 10-17-2000]

(a) Manufacturing or fabrication of any commodity, except:

  (1) Facilities producing or processing explosives or flammable gases or liquids;

  (2) Facilities for animal slaughtering, meat packing or rendering;

  (3) Sulphur plants, rubber reclamation plants or cement plants; and

  (4) Steel mills, foundries or smelters.

(b) Warehousing or wholesaling of manufactured goods.

(c) All public utility facilities.

(d) Distribution plants.

(e) Research and testing laboratories and facilities.

(f) Police and fire stations.

(g) (Reserved)

(h) Truck, bus, rail and watercraft terminals.

(i) Railroad switching yards.

(j) Accessory buildings, land uses and activities customarily incidental to any of the above uses.

Section 23-121. Special Land Uses and Developments. [Ord. No. 646 §2; Ord. No. 941 §2; Ord. No. 1503 §1, 1-2-2001; Ord. No. 1892 §§3 — 4, 2-21-2006; Ord. No. 2223 §3, 7-3-2012]

(a) Radio, television and communication transmitting or relay towers and facilities.

(b) Service stations and repair shops.

(c) Extraction of raw materials from the earth and the processing thereof.

(d) (Reserved)

(e) Cement batching plants.

(f) Manufacturing, processing and fabrication of flammable gases and liquids, and explosives.

(g) Warehousing, storage or wholesaling of explosives or flammable gases and liquids.

(h) Airports, landing strips and heliports.

(i) Sewage treatment facilities.

(j) Recreational uses and activities.

(k) Telecommunications facilities, subject to additional provisions contained in this Chapter.

(l) Solid and hazardous waste industry related uses including:

(1) Solid and hazardous waste facility administrative or operations offices.

(2) On-site and off-site parking of waste industry vehicles or equipment.

(3) On-site and off-site storage of waste industry vehicles or equipment.

(4) Recyclable material collection centers or recycling reclamation facilities.

(5) Commercial yard waste or composting operations.

(6) Trash transfer stations.

(7) Landfill facilities.

(8) Waste processing plants.

(9) Waste separation facilities.

(10) Waste hauling facilities.

(11) Hazardous material mitigation facilities.

(m) Indoor firing range.

Section 23-121.1. Special Use-Off-Site Parking and Storage. [Ord. No. 1264 §§2 — 3, 11-19-1996]

(a) *Definitions.* For purposes of these regulations, the following definitions shall apply:

EQUIPMENT — Any residential, commercial or industrial class self-propelled or wheeled towable machinery used in construction, farming, lawn and garden care, commercial operations or industrial operations.

MOTOR VEHICLE — Any motorized, self-propelled automobile, motorcycle, truck or recreational vehicle.

OFF-SITE PARKING OR STORAGE — The parking or storage of motor vehicles, trailers or equipment by or on behalf of the owner or operator of same on property or a portion thereof not owned, leased or rented by the owner or operator of said motor vehicle, trailer or equipment.

TRAILER — An open or enclosed transport or container used for the movement or storage of goods, materials, supplies, tools, equipment, merchandise, motor vehicles, boats or animals.

(b) *General Provisions.*

(1) The Planning and Zoning Commission and Board of Aldermen may give consideration to applications for off-site parking or storage under the special use permit provisions on property that is not residentially zoned.

(2) The owner or operator of the land on which the off-site parking or storage activity is being conducted shall be the applicant, not the owner or operator of the motor vehicle, trailer or equipment being stored on same.

(3) Consideration criteria will be reviewed a minimum of annually, and if an inspection of property and the motor vehicles, trailers or equipment located thereon results in a determination that any standards are lacking, City staff may place the applicant on notice and request review of the special use authority, with the possible outcome of special use permit rescission by the Board of Aldermen.

(4) The assessment and professional opinion of City staff shall be the factor in determining if an activity presently being conducted or to be proposed is not in conformance with these provisions. The Planning and Zoning Commission shall be the appeals body for such a staff determination.

(5) All commercial zoning district areas utilized for off-site parking or storage, and ingress/egress thereto, shall be hard surfaced with concrete or asphalt in conformance with City specifications. All light industrial or greater district areas utilized for off-site parking or storage, and ingress/egress thereto, shall be surfaced with a minimum of six (6) inches of rolled gravel in conformance with City specifications.

(c) *Off-Site Parking Or Storage Consideration.* In addition to normal factual determination criteria, following are examples of factors which may be examined or conditions which may be imposed during the course of application consideration:

(1) In instances where there is an existing business, the degree to which the subject motor vehicles, trailers or equipment can practically, reasonably and

economically be parked on property the owner or operator of same owns, leases or rents.

(2) Existing and/or proposed lot improvements and topographical conditions.

(3) Impact on adjacent properties (property values, aesthetics, etc.)

(4) Effects on general community standards (passersby, etc., not immediately adjacent to the subject site).

(5) What can be stored in a particular location (type, number, etc.)

(6) Degree to which it might create or exacerbate hazardous or unsanitary conditions.

(7) Creation or aggravation of general nuisances such as visual, noise, odor, etc.

(8) Ongoing lot and/or vehicle/trailer maintenance standards.

(9) Landscaping/screening/buffer requirements.

(10) Ingress/egress and general traffic impact standards.

(11) Proximity to residential zoning districts or residentially utilized property in other zoning districts.

(12) Proximity to other businesses and/or property lines and/or streets.

(13) No wrecked, derelict, or otherwise unsightly or unsafe motor vehicles, trailers or equipment.

(d) All moratoriums on prosecution shall expire within sixty (60) days of November 19, 1996. There shall be no legal non-conformities created as a result of this Section unless an individual or entity can present evidence that they are conducting their particular off-site parking or storage activity with official, documentable City authority.

Section 23-122. Height Limitations. [Ord. No. 1883 §2, 1-3-2006]

With the exception of radio and television transmission towers, the maximum height of any structure shall not exceed forty (40) feet above the average finished ground elevation at the perimeter of the structure. Consideration may be given to a maximum structure height of up to one hundred (100) feet through the special use permit process.

Section 23-123. Lot Area, Open Area and Yard Requirements. [Ord. No. 646 §2; Ord. No. 1016 §1, 3-3-1992; Ord. No. 1337 §1, 2-17-1998; Ord. No. 1387 §1, 12-15-1998; Ord. No. 1488 §23, 10-17-2000; Ord. No. 1617 §3, 6-4-2002; Ord. No. 1653 §§6 — 7, 10-15-2002]

(a) There shall be no minimum lot area requirements in this district.

(b) Not more than seventy-five percent of the lot containing any use permitted in this district may be used for the open storage of raw material, finished goods or any other material.

(c) No structure shall be erected closer than thirty (30) feet of any public roadway right-of-way line, with the exception of City authorized boundary walls or fences, provided that as determined by the Building Commissioner, such boundary wall or fence erection does not create safety or traffic hazards.

(d) No structure shall be closer than ten (10) feet of any property line, however, when the side or rear yard of an industrial lot abuts any property located in the "R-1", "R-2", "R-3", "R-4", "R-5A", "R-5B", "R-5C" or commercial zoning districts, a minimum twenty-five (25) foot wide buffer yard shall be established and maintained along all such rear and side property lines. The buffer yard shall contain landscaping as approved by the City, as well as a louvered fence, solid fence or wall a minimum of five (5) feet in height, except where sight distance regulations at street intersections require other arrangements. The use of topographic features or landscaping in lieu of fences or walls where such alternates will achieve a comparable effect may be authorized by the City. The Board of Aldermen may approve certain exceptions and/or adjustments to the requirements under this Section based on practical difficulties including topography or existing site improvements or structures.

(e) *Landscape Buffers And Screening Of Outdoor Storage Areas.*

(1) A landscape buffer of twenty (20) feet shall be established and maintained adjacent and parallel to all Missouri Highway and Transportation Department rights-of-way. Landscaping areas in front of buildings and in parking lot islands may substitute for up to one-half (½) of the required landscape buffer. The landscape buffer areas shall contain evergreen or ornamental trees and shrubs approved by the City. Outdoor display areas shall not encroach into the landscape buffer. Landscape buffers consistent with the topographic and aesthetic needs of each City and private roadway shall also be established and maintained along City of Eureka rights-of-way or private road easement. As approved by the City and the Missouri Department of Transportation, landscape buffers required under this Section may be located in whole or in part in State rights-of-way. The Board of Aldermen may approve certain exceptions and/or adjustments to the landscape buffer requirements under this Section based on practical difficulties including topography or existing site improvements or structures.

(2) Outdoor storage areas shall be screened from public view through use of earth berms, fencing, or landscaping, or a combination thereof. Fencing and landscaping used for screening of outdoor storage areas shall be decorative in nature and maintained in an acceptable manner. Decorative fences do not include chain link fences, with or without slats. Outdoor storage areas shall have a minimum surface covering of six (6) inches of rolled gravel. An applicant may propose on a site-specific basis, outdoor storage area fencing of alternate materials and/or configurations including chainlink fencing, which may be considered for approval by the Planning and Zoning Commission and Board of Aldermen based on criteria including, but not limited to, the proposed use of the subject property, adjacent uses, and adjacent zoning

districts. Any authority relating to the use of alternate fence materials and/or configurations may include conditions of approval. If such authority is granted, it shall be subject to review and possible revocation upon changes in ownership and/or use.

(3) A site plan illustrating the landscape buffers and screening of outdoor storage areas shall be submitted to the Building Commissioner, drawn to a minimum of one (1) inch equals one hundred (100) feet scale, which shows all property lines, buildings, storage areas, easements, roadways, and existing trees, in addition to proposed screening materials. For purposes of meeting presentations, site plans may be submitted drawn to a scale of one (1) inch equals two hundred (200) feet. The site plan shall be reviewed by the Planning and Zoning Commission with a recommendation sent to the Board of Aldermen for final review and approval.

(4) Businesses in existence prior to March 3, 1992, (the effective date of this ordinance) are encouraged to meet the requirements in paragraphs (1) and (3) above.

(5) Outdoor storage areas in existence prior to March 3, 1992, (the effective date of this ordinance) are encouraged to meet the requirements in paragraphs (2) and (3) above.

(6) All shade trees shall be a minimum of eight (8) feet and the evergreen trees six (6) feet in height.

Section 23-124. Home Occupation. [Ord. No. 1194 §1, 9-19-1995]

A home occupation, as defined in Section 23-12 of this Chapter, and as amended, shall hereafter be designated to be a permitted use in all residentially utilized structures located in zoning districts "M-1" and "M-2".

Section 23-125. Off-Street Parking Requirements. [Ord. No. 646 §2]

All uses shall be required to provide for off-street parking in accordance with article XV of this chapter.

ARTICLE XIII
"PI" Planned Industrial District

Section 23-130. Purpose. [Ord. No. 646 §2]

The regulations contained within this article are those of the "PI" Planned Industrial District, to be designated "PI" on the city zoning map. It is the purpose of these regulations to allow or assure the establishment of combinations of developments or uses for which no provision is made in the "M-1" or "M-2" Industrial Districts or where it is appropriate or desirable to make special provision for specific industrial developments to occur through approval of detailed site plans in conjunction with appropriate development conditions to ensure consistent and compatible uses or use groups in character with the "Eureka City Plan."

Section 23-131. Establishment. [Ord. No. 646 §2]

A Planned Industrial District may be established on a tract of land through application and approval by the board of aldermen in accordance with procedures contained in Section 23-182; provided, that a final development plan is subsequently approved by the planning and zoning board and recorded by the petitioner in the office of the recorder of deeds of the county.

A Planned Industrial District may be established by ordinance or resolution of the board of aldermen on its own motion where the board has determined that a particular tract or area would be best developed for a particular industrial use, but because of potential conflict with adjoining uses existing or projected, a greater degree of control than is possible under the "M-1" or "M-2" Industrial Districts is necessary to protect the general welfare or assure the implementation of an area-wide planning program.

Section 23-132. Permitted Land Uses and Developments. [Ord. No. 646 §2]

In a Planned Industrial District, the uses permitted shall be the same as those permitted with or without special use permit in the "M-1" or "M-2" Industrial Districts and related or accessory commercial uses or may be approved and specifically authorized by the board of aldermen. However, the specific ordinance authorizing the establishment of a Planned Industrial District may further limit the uses permitted on the tract.

Section 23-133. Lot Area and Yard Requirements. [Ord. 646 §2; Ord. No. 1016 §1, 3-3-1992; Ord. No. 1337 §1, 2-17-1998; Ord. No. 1387 §1, 12-15-1998; Ord. No. 1488 §24, 10-17-2000; Ord. No. 1653 §8, 10-15-2002]

(a) The minimum lot area for the establishment of a Planned Industrial District shall not be less than three acres, unless such parcel is a logical extension of or is being developed in conjunction with an adjacent existing or proposed nonresidential use.

(b) Yard area for structure, open area and setback for parking areas and lighting shall be established by the conditions of the particular Planned Industrial District ordinance so as to ensure consistency or compatibility with adjoining developments or zoning districts; however, no structure or parking area shall be permitted within twenty-five (25) feet of any property line adjoining a residential district. Any structure exceeding forty-five (45) feet in height which adjoins property in a residential district shall maintain a setback from such property line, in addition to the minimum twenty-five (25) feet, a distance of two (2) feet for each additional one (1) foot in height over forty-five (45) feet; additional setback distance may be imposed if deemed necessary or beneficial by the board of aldermen to protect the general welfare.

(c) *Landscape Buffers and Screening of Outdoor Storage Areas.*

(1) A landscape buffer of twenty (20) feet shall be established and maintained adjacent and parallel to all Missouri Highway and Transportation Department rights-of-way. Landscaping areas in front of buildings and in parking lot islands may substitute for up to one-half (½) of the required landscape buffer.

The landscape buffer areas shall contain evergreen or ornamental trees and shrubs approved by the City. Outdoor display areas shall not encroach into the landscape buffer. Landscape buffers consistent with the topographic and aesthetic needs of each City and private roadway shall also be established and maintained along City of Eureka rights-of-way or private road easement. As approved by the City and the Missouri Department of Transportation, landscape buffers required under this Section may be located in whole or in part in State rights-of-way. The Board of Aldermen may approve certain exceptions and/or adjustments to the landscape buffer requirements under this Section based on practical difficulties including topography or existing site improvements or structures.

(2) Outdoor storage areas shall be screened from public view through use of earth berms, fencing, or landscaping, or a combination thereof. Fencing and landscaping used for screening of outdoor storage areas shall be decorative in nature and maintained in an acceptable manner. Decorative fences do not include chain link fences, with or without slats. Outdoor storage areas shall have a minimum surface covering of six (6) inches of rolled gravel. An applicant may propose on a site-specific basis, outdoor storage area fencing of alternate materials and/or configurations including chainlink fencing, which may be considered for approval by the Planning and Zoning Commission and Board of Aldermen based on criteria including, but not limited to, the proposed use of the subject property, adjacent uses, and adjacent zoning districts. Any authority relating to the use of alternate fence materials and/or configurations may include conditions of approval. If such authority is granted, it shall be subject to review and possible revocation upon changes in ownership and/or use.

(3) A site plan illustrating the landscape buffers and screening of outdoor storage areas shall be submitted to the Building Commissioner, drawn to a minimum of one (1) inch equals one hundred (100) feet scale, which shows all property lines, buildings, storage areas, easements, roadways, and existing trees, in addition to proposed screening materials. For purposes of meeting presentations, site plans may be submitted drawn to a scale of one (1) inch equals two hundred (200) feet. The site plan shall be reviewed by the Planning and Zoning Commission with a recommendation sent to the Board of Aldermen for final review and approval.

(4) Businesses in existence prior to March 3, 1992, (the effective date of this ordinance) are encouraged to meet the requirements in paragraphs (1) and (3) above.

(5) Outdoor storage areas in existence prior to March 3, 1992, (the effective date of this ordinance) are encouraged to meet the requirements in paragraphs (2) and (3) above.

(6) All shade trees shall be a minimum of eight (8) feet and the evergreen trees six (6) feet in height.

Section 23-134. Height Limitations for Structures. [Ord. No. 646 §2]

Unless otherwise limited by the particular Planned Industrial District ordinance, the total permitted height of structures within the district shall be the same as is permitted in section "M-1" or "M-2" Industrial Districts.

Section 23-135. Off-Street Parking and Loading Requirements. [Ord. No. 646 §2]

Off-street parking and loading requirements shall be established in the specific ordinance establishing the Planned Industrial District. All uses shall be required to provide for off-street parking in accordance with Article XV of this Chapter.

Section 23-136. Minimum Performance Standards. [Ord. No. 646 §2]

Minimum performance standards shall be established in the specific ordinance establishing the Planned Industrial District.

Section 23-137. (Reserved) [Repealed by Ordinance No. 930 §1]

Section 23-138. Procedures. [Ord. No. 646 §2]

See Section 23-182 for processing steps and requirements.

ARTICLE XIV
"CUP" Community Unit Plan

Section 23-140. Submission and Review of Plans. [Ord. No. 646 §2; Ord. No. 1265 §2, 11-19-1996; Ord. No. 1504 §1, 1-16-2001]

The owner of any tract of land comprising an area of not less than ten (10) acres may submit to the Board of Aldermen a preliminary development plan for the use and development of all of the tract of land, to be known as a "CUP" Community Unit Plan development, and in accordance with the "Eureka City Plan". The preliminary development plan, containing at a minimum that information specified in Section 23-182, shall be referred to the Zoning Commission for study and report and for public hearing. The Commission may recommend approval subject to appropriate conditions or denial. The Commission's recommendation shall be based upon the following:

(a) That property adjacent to the area included in the plan will not be adversely affected.

(b) That the plan is consistent with the intent and purpose of this Chapter to promote public health, safety, morals and general welfare.

(c) That the buildings and land shall be used only for single-family dwellings, two-family dwellings or multiple dwellings and the usual accessory uses such as garages, storage space and community activities, including churches and schools.

(c) A local business district containing any of the following commercial uses may be authorized to serve the need within the limits of the community unit plan presented; provided, that such uses are located within a separate structure or within a multiple-

family residence building, and provided, that such uses occupy no more than five percent (5%) of the gross floor area of all residential buildings within the development excluding garages. All public entrances to such commercial uses shall be from roads and walkways within the development.

(1) Food store or drugstore;

(2) Barber and beauty shop;

(3) Laundry, dry cleaning pick-up station or self-service laundry or dry cleaning facility;

(4) Restaurant, excluding drive-in, drive-thru or curb service restaurants; and

(5) Cigar or newspaper stand.

Provided further, that the business district is not authorized until after the public improvements such as streets, sewers, water lines, etc., are installed or the necessary bond or escrow posted to assure completion of development and habitation, and provided the location and size of the district is approved by the Zoning Commission.

(d) That the development shall not contain more dwelling units than would be permitted in the district in which the development is located, excluding therefrom the area used for streets. Land within the floodplain of the watercourses in the City other than the Meramec River may, when such land is part of a tract lying within a residential district, be considered as part of the gross acreage in computing the maximum number of dwelling units that may be constructed under this procedure. Land dedicated or to be dedicated for public park use under the provisions of this Code shall be included in the gross acreage in computing the maximum number of dwelling units permitted.

(d) The Zoning Commission shall also consider the architectural, landscape and other relationships which may exist between the proposed development and the character of the surrounding neighborhood and shall prescribe and require such physical treatment or other limitations as will, in its opinion, enhance the neighborhood character. If the Commission approves the preliminary development plan, the plan, together with the recommendations of the Commission, shall be accompanied by a report to the Board of Aldermen stating the reason for approval of the application and specific evidence and facts showing that the proposed community unit plan meets the above conditions.

(d) The Zoning Commission may recommend and the Board of Aldermen may impose special conditions relating to any development under this Section. These conditions may relate to, but need not be limited to, the following:

(a) Conditions relative to the type and extent of improvements and landscaping;

(b) Conditions governing development, improvements and maintenance of common ground; and

(c) Conditions relative to the maximum or minimum gross floor area per dwelling unit.

Section 23-140.1. Single-Family Residential Development Standards. [Ord. No. 1294 §8, 6-17-1997; Ord. No. 1488 §25, 10-17-2000; Ord. No. 1731 §1, 11-4-2003]

(a) Residences shall be situated on tracts of land providing at least seven thousand five hundred (7,500) square feet of lot area for each residence.

(b) Every lot shall have a minimum frontage of seventy (70) feet.

(c) No structure shall be erected within twenty-five (25) feet of any public roadway right- of-way line. However, farm buildings shall not be located within one hundred (100) feet of any property line.

(d) There shall be a rear yard having a depth of not less than twenty (20) feet except as otherwise provided in this Chapter.

(d) On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet except as otherwise provided in this Chapter. As approved by the Board of Aldermen, this required side yard may be reduced to a width of not less than six (6) feet.

(d) Corner lots shall be considered to have a front yard along both street frontages.

(d) On lots having double frontage, the front yard shall be along the street providing the main entrance to the lot.

Section 23-141. Appeal Procedure. [Ord. No. 646, §2]

The appeal procedure for any petition for which the zoning commission has recommended denial shall be the same as that provided in section 23-181.

Section 23-142. Final Development Plan. [Ord. No. 646, §2]

If the application for a community unit plan is approved by ordinance of the board of aldermen, the matter shall be returned to the zoning commission for consideration of a final development plan as prepared and submitted by the petitioner in accordance with procedures set forth in section 23-182. Upon approval of the final development plan by the zoning commission, the owner in fee simple shall record such plan and conditions with the county recorder of deeds as a community unit plan. A recorded final development plan shall constitute an approved preliminary plat for subdivision purposes. Failure to commence substantial construction within one year of approval of the final development plan by the zoning commission shall terminate the community unit plan, and the zoning commission shall initiate a resolution of intent to revert the property to its prior zoning classification. Where due cause is shown by the petitioner, the commission may extend the period to commence construction for one year. As used herein, substantial construction shall mean final grading for roadways necessary for the first approved plat or phase of construction and installation of sanitary and storm sewers.

ARTICLE XV

Off-Street Parking Regulations

Section 23-150. Specific Requirements by Use. [Ord. No. 646 §2; Ord. No. 988 §1, 6-4-1991; Ord. No. 1020 §1, 4-21-1992]

In every zoning district off-street parking spaces shall be provided to the number calculated by use category, as follows:

Use or Use Category	Off-Street Parking Space(s) Required
Residential, all dwelling units including seasonal camps and cabins	2 per dwelling unit
Rooming, boardinghouses	1 per occupant or unit, whichever is greater
Trailer courts, mobile home parks	2 per mobile home or unit
Dormitories, private clubs, fraternities, sororities and lodges with sleeping rooms	1 per 2 beds
Sanatoriums, homes for the aged, etc.	1 per 5 beds
Convent or monastery	2 per 10 beds
Motel, motor lodge or hotel, tourist court, etc.	5 spaces plus 1 for each suite or sleeping room
Campground or transient trailer park	1 for each tent or trailer space
Hospital	2 per patient bed
Community facilities (library, museum) and other public or private recreational uses or exhibition halls without fixed seats	1 per 100 square feet of floor area
Auditorium, gymnasium, stadium, arena, convention hall or theater	1 per 4 seats or equivalent seating area
Elementary school, junior high	1 per 10 students plus 1 per classroom or office
High school	1 per 6 students plus 1 per classroom or office
Business or trade school	1 per 2 students
Nursery school or day care center	1 for each 400 square feet of floor area, 5 spaces minimum
Church, temple, synagogue or place of worship	1 per 4 seats or equivalent bench seating

Private clubs, lodges, fraternal organizations	1 per 100 square feet of floor area
Bowling alley	4 per lane
Golf course	30 for each 9 holes
Marina	1 for each 2 leasable boat berths
Miniature golf course	20 for each 9 holes
Playing field for baseball, football or soccer	12 for each playing field
Skating rink	1 for each 50 square feet of rink floor space.
Stable or riding academy	1 for each 10 animals which can be stabled on the premises
Swimming beach	1 for each 5 feet of beach shoreline
Swimming pool	1 for each 40 square feet of pool area
Tennis, squash or handball court	3 for each 2 courts
Retail stores or personal service establishment, and bank	1 per 100 square feet of floor area under 2,000 square feet of floor area; 1 per 150 square feet of floor area if greater than 2,000 square feet and less than 4,000 square feet of floor area; 1 per 200 square feet of floor area over 4,000 square feet of floor area
Office or office building, post office, studio	1 per 200 square feet of floor area
Manufacturing or industrial establishments	1 for each 1,000 square feet of developed land area, or 1 per 2 employees on maximum working shift, whichever is greater; plus space for storage of trucks or other vehicles used in connection with the business which will be determined by the planning and zoning commission.
General service or repair establishment, printing, plumbing, broadcasting station, etc.	1 per 200 square feet of floor area
Furniture or appliance store, machinery, equipment automobile and boat sales and services	1 per 200 square feet of floor area, 4 spaces minimum
Boat launching ramp	12 spaces, each 40 feet by 9 feet and abutting two aisles at an angle of no more than 60 degrees, for each single-lane ramp or each full 15 feet of width for a multi-lane ramp
Funeral home, mortuary	1 per 100 square feet of floor area, excluding storage

	and work areas, 30 spaces minimum
Animal hospital or clinic	1 per 300 square feet of floor area, 5 spaces minimum
Mobile home or travel trailer sales, campers	1 per 200 square feet of sales offices area, 6 spaces minimum
Restaurants: Drive-in, drive-thru and carryout	1 per 75 square feet of floor area, 10 spaces minimum
Restaurant, bar, other establishment for consumption of food or beverage inside the building on the premises.	1 per 100 square feet of floor area, 10 spaces minimum
Batting cages.	2 per batting cage
Golf driving ranges.	1 per tee
Recreation uses not otherwise listed	1 square foot of parking area for each square foot of recreation use

Section 23-151. Interpretation of Specific Requirements. [Ord. No. 646 §2]

The parking requirements in section 23-150 are in addition to space for storage of trucks or other vehicles used in connection with any use.

The parking requirements in this article do not limit special requirements which may be imposed with planned unit developments (PC, PI and CUP), or special uses.

Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.

Except as otherwise provided, the number of employees shall be compiled on the basis of the maximum number of persons employed on the premises at one time on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.

The parking space requirements for a use not specifically listed in section 23-150 shall be determined by the planning and zoning commission. Parking space requirements shall be established by using accepted principles outlined in the American Society of Planning Officials Publications.

In the case of mixed uses, uses with different parking requirements occupying the same building or premises or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

Whenever a building is enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need under the requirements of this article for an increase in parking spaces of twenty-five percent or more, such additional spaces shall be provided on the basis of the change or enlargement. No additional spaces shall be

required for the first change or enlargement which would result in an increase of spaces of less than twenty-five percent of those required before the change or enlargement. This exception shall not apply to a series of changes or enlargements which together result in a need for an increase in parking spaces of twenty-five percent or more.

"Square feet" shall mean the floor area or space within the outside line of walls and includes the sum of all floors of a building. It shall not include porches, garages or space in a basement or cellar when such basement or cellar space is used for storage or incidental uses.

Section 23-152. Joint Use and Off-Site Facilities. [Ord. No. 646 §2]

All parking spaces required herein shall be located on the same lot with the building or use served; except, that where an increase in the number of spaces is required by a change or enlargement of use or for nonresidential uses, the required spaces may be located and maintained not more than five hundred feet from the building served, upon approval of the planning and zoning commission.

Up to fifty percent of the parking spaces required for (a) theaters, public auditoriums, bowling alleys, dance halls and night clubs, and up to one hundred percent of the parking spaces required for a church auditorium may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those uses listed in (a) and up to one hundred percent of parking spaces required for schools may be provided and used jointly by a church auditorium; provided, that written agreement thereto is properly executed and recorded as specified below.

In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, such parking space shall be established by a recorded covenant or agreement as parking space to be in conjunction with the principal use and shall be reserved as such through an encumbrance on the title of the property to be designated as required parking space, such encumbrance to be valid for the total period any use for which the parking is needed is in existence.

Section 23-153. Design Standards. [Ord. No. 646 §2; Ord. No. 1030 §1, 7-21-1992; Ord. No. 1525 §2, 5-15-2001]

(a) *Minimum area.* Minimum dimensions for each off-street parking space shall be nine (9) feet wide and nineteen (19) feet long. Such areas shall be permanently reserved for the temporary storage of one vehicle and shall be connected with a street or alley by a driveway which affords ingress and egress for one motor vehicle without requiring another vehicle to be moved, except for single-family dwellings.

(b) *Surfacing.*

(1) All parking lots and driveways except those in the "LLRD" residential district shall be paved with concrete or asphaltic materials.

(2) Residential driveways constructed of concrete shall conform to St. Louis County specifications on the right-of-way and a minimum of four (4) inches on private property.

(3) Residential driveways constructed of asphaltic materials shall conform to St. Louis County specifications on the right-of-way and a minimum of two (2) inches of Type "C" asphalt on six (6) inches of compacted aggregate base on private property.

(4) Commercial and industrial driveways and parking lots (including three (3) units or more multi-family) constructed of concrete shall conform to St. Louis County specifications on the right-of-way, and a minimum of six (6) inches in depth on private property.

(5) Commercial and industrial driveways and parking lots (including three (3) units or more multi-family) constructed of asphaltic materials shall conform to St. Louis County specifications on the right-of-way, and a minimum of three (3) inches of Type "C" asphalt on six (6) inches of compacted aggregate base on private property.

(c) *Drainage and Maintenance.* Off-street parking facilities shall be drained so as to eliminate standing water and not cause damage to adjacent public and/or private property. All off-street parking and loading shall be maintained as free as practicable from dust, paper, other loose particles, snow, ice and sleet. All signs, markers and parking location markings shall be maintained in a neat and legible condition. The surfacing of all off-street parking and loading facilities shall be maintained in good condition. All plantings, screenings and structures shall be maintained in good condition. The city administrator is hereby authorized to prohibit the use of off-street parking and loading facilities after properly notifying the owner, agent or operator of maintenance required and giving such owner, agent or operator thirty days in which to comply with requirements contained in the notice.

(d) *Stormwater Detention.* Off-street parking areas may be required to provide for the detention of stormwater on parking lot areas, as determined by the Stormwater Detention Criteria of the City of Eureka, copies of which are on file with the City Clerk, City Administrator and Building Commissioner.

(e) *Separation From Walkways and Streets.* Off-street spaces other than single-family residential shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device, or by distance, so that vehicles cannot protrude over public and/or private property.

(f) *Entrances and Exits.* Location and design of entrances and exits shall be in conformance with St. Louis County specifications. In general, there shall not be more than one (1) entrance and one (1) exit, or one (1) combined entrance and exit along any one (1) street. Landscaping, curbing or approved barriers shall be provided along lot boundaries to control the entrance and exit of vehicles or pedestrians.

(g) *Interior Drives.* Interior drives shall be in conformance with St. Louis County specifications so as to be of adequate width to serve a particular design arrangement of parking spaces.

(h) *Marking.* Parking spaces in lots of more than ten spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot and to designate handicapped parking spaces.

(i) *Lighting (excluding residential).* Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to eliminate glare on property in a residential district and adjacent streets. Lighting intensity shall be designed in accordance with the county Subdivision Ordinance and as it may be amended.

(j) *Screening.* When off-street parking areas for ten or more automobiles are located closer than fifty feet to a lot in a residential district, and where such parking areas are not entirely screened visually from such lot by an intervening building or structure, a continuous, visual screen with a height of four to six feet shall be provided between the parking area and such lot in a residential district. Such screen may consist of a compact evergreen hedge of foliage screening, a solid fence or other acceptable screening.

(k) *Erosion Control.* Adequate erosion control measures shall be planned and undertaken during the construction period of parking areas, as determined, reviewed and approved by the city administrator.

Section 23-154. Use Limitations; Unlawful Practices. [Ord. No. 646 §2; Ord. No. 707 §§1, 2; Ord. No. 713 §§1, 2; Ord. No. 1940 §2, 9-19-2006]

Off-street parking facilities shall not be used for the sale, repair, dismantling or servicing of any vehicle, equipment, material or supplies. However, the display and sale of one (1) vehicle, personally owned by the resident/owner or occupant residing in a residential zoning district, shall be permitted once per year.

Vehicles shall not be stored in required front yard areas, with the exception of required, improved and designated parking spaces.

A maximum of five vehicles per residence, including motor homes and recreational vehicles, shall be allowed to park in residential off-street parking spaces.

The parking of one inoperative, damaged or unlicensed vehicle in a residential off-street parking space shall be allowed; provided, that the vehicle is within a garage or carport. This will allow residents to repair their own vehicles.

Off-street parking on a residential lot of commercial motor vehicles having a gross weight in excess of twelve thousand pounds or licensed to haul in excess of twelve thousand pounds, or any tractor or tractor-trailer truck unit, shall be prohibited, excepting motor homes or recreational vehicles.

Section 23-155. Existing Structures. [Ord. No. 646 §2]

Buildings and structures in existence prior to March 16, 1982, shall not be required to provide off-street parking spaces.

Should the building or structure be enlarged twenty-five percent or more, such enlargement shall be subject to the requirements contained in this article.

Off-street parking facilities in existence on March 16, 1982, shall be required to maintain such off-street parking facility in a safe and usable manner and shall keep such off-street parking facility as free as practicable from dust, paper, snow, ice and sleet.

Section 23-156. Variances. [Ord. No. 646 §2]

A variance from the requirements contained herein may be allowed upon recommendation of the planning and zoning commission with the approval of the board of aldermen. A public hearing shall not be required in granting variances from the requirements of this article.

Section 23-157. Building Permits. [Ord. No. 646 §2]

Building and structures not meeting the requirements contained herein, for which application has been made for a building permit, shall not be granted a building permit unless a variance has been granted in accordance with section 23-156.

Section 23-158. Enforcement. [Ord. No. 646 §2]

(a) It shall be the duty of the city administrator to carry out and enforce the provisions of this article.

(b) The city administrator may grant a conditional or temporary occupancy permit for buildings or structures that have not completed construction of the parking lot when, in the opinion of the city administrator, substantial temporary hardship is shown, such as seasonal weather conditions; provided, that the owner and/or occupant certifies in writing that he will expeditiously complete construction within a reasonable specified period of time, as determined by the city administrator.

ARTICLE XVI
Supplemental Regulations

Division 1
General Provisions

Section 23-160. Architectural Conformity. [Ord. No. 646 §2]

(a) Every single-family dwelling erected within the city shall conform to the minimum ground floor area requirements contained in the table below. The measurement of the minimum ground floor area shall be determined by the area exclusive of utility rooms, unroofed porches, unenclosed roofed porches and garages. Indoor plumbing and toilet facilities shall be provided for sanitation in all occupied buildings within the city; provided, however, that upon application the planning and zoning

commission may except from this requirement freestanding commercial buildings of one hundred square feet or less. The architecture and general appearance of all buildings shall be in keeping with the character of development in the neighborhood in which the building is proposed.

Zoning District	Single-Family Minimum Ground Floor Area
R-1	1,000 sq. ft.
R-2	900 sq. ft.
R-3	850 sq. ft.
R-4	750 sq. ft.
R-5	750 sq. ft.

(b) Every application for a building permit for a residential or other building which, in the opinion of the building commissioner, indicates that the building would be unsightly, grotesque or unsuitable when compared to surrounding residential and other buildings, is detrimental to the stability of values of surrounding property and does not conform in general to the surrounding property, shall be submitted by the building commissioner, along with plans, elevations, detailed drawings and specifications, to the zoning commission before being finally approved by the building commissioner.

(c) If the zoning commission returns the application to the building commissioner without disapproval, the building commissioner may issue the permit. Failure by the zoning commission to act within thirty days after the building commissioner shall have delivered the plans to the zoning commission shall be authority for the building commissioner to issue the permit.

(d) If the zoning commission shall return the application to the building commissioner with disapproval and recommendations, the building commissioner may issue the permit; provided, that the applicant shall make appropriate changes in the drawings and specifications and agree to comply with the recommendations of the zoning commission.

(e) If the zoning commission shall return the application to the building commissioner with its disapproval and without recommendation, or with its disapproval with recommendations, and the applicant shall refuse to comply with the recommendations, in either case, the building commissioner shall refuse to issue the permit.

(f) In the event a permit is refused by the building commissioner under the provisions of subsection (e) of this section, the applicant may appeal the action to the board of adjustment in accordance with the provisions of this chapter.

Section 23-161. Height Exceptions. [Ord. No. 646 §2]

The requirements of this chapter in the height and area districts shall be subject to the following height exceptions and regulations:

(a) In the thirty-five and forty-five foot height districts, public or semipublic buildings, hospitals, sanitariums or schools may be erected to a height not exceeding seventy-five feet when the front, side and rear yards are increased an additional two feet for each foot such buildings exceed thirty-five or forty-five feet in height; provided, that such exceptions shall not be permitted where they would conflict with any existing ordinances of the city, or other governmental regulations regarding the height of buildings surrounding airports, landing fields or landing strips.

(b) Dwellings in the thirty-five foot height district may be increased in height by not more than ten feet when two side yards of not less than fifteen feet each are provided. Such dwellings, however, shall not exceed three stories in height; provided, further, that such additional heights shall not be permitted where they would conflict with any existing ordinances of the city, or other governmental regulations regarding the height of buildings surrounding airports, landing fields or landing strips.

(c) Chimneys, towers, penthouses, radio and television towers, scenery lofts, monuments, cupolas, domes, spires, false mansards, parapet walls, similar structures and necessary mechanical appurtenances may be erected as to their height in accordance with existing ordinances of the city, but such structures shall not be permitted within one mile of an airport, landing field or landing strip.

Section 23-162. Projections Beyond Front Yard Lines. [Ord. No. 646 §2; Ord. No. 1633 §6, 9-17-2002]

Where lots comprising forty percent (40%) or more of the frontage are developed with buildings having an average front yard with a variation of not more than six (6) feet in the "R-1" through "R-4" Residence District and ten (10) feet in the "C" Commercial Districts, no building hereafter erected shall project beyond the average front yard line so established; provided further, that this regulation shall not be so interpreted as to require a front yard of more than sixty (60) feet in the "R-1" Residence District and fifty (50) feet in the "R-2" through "R-4" Residence Districts and the "C" Commercial District.

Section 23-163. Yards for Through Lots. [Ord. No. 646 §2]

Buildings on through lots and extending through from street to street may waive the requirements for a rear yard by furnishing a front yard on both streets.

Section 23-164. Yards Opening Into Alleys. [Ord. No. 646 §2]

In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens in an alley, one-half of the alley width may be included as a portion of the rear or side yard, as the case may be.

Section 23-165. Accessory Buildings. [Ord. No. 646 §2; Ord. No. 1237 §§4 — 5, 7-16-1996; Ord. No. 1697 §2, 6-3-2003; Ord. No. 1815 §1, 1-18-2005]

(a) Accessory buildings which are not a part of the main building may be built in a rear yard within five (5) feet of the rear and side lot lines, with the exception of those within the "LLRD" zoning district which shall be governed by Section 23-82. An accessory building which is not a part of the main building shall not occupy more than thirty percent (30%) of the required rear yard.

(b) Accessory buildings which are to be used for storage purposes only may not be erected upon a lot prior to the construction of the main buildings, and no accessory building shall be used for dwelling purposes with the exception of a detached garage with a dwelling unit above within the large lot residential zoning district after being authorized by the special use permit process subject to conditions including the following:

(1) The proposed dwelling unit is to never be used as public rental property.

(2) Only one (1) accessory structure with a dwelling unit above is permitted on a lot.

(3) The accessory building is to be no greater in height than the principal structure.

(4) The accessory structure shall have a minimum seventy-five (75) foot setback from side and rear property lines.

(c) Portable garages or carports as defined in this Chapter are not permitted.

Section 23-166. Projections Over Street Lines and Required Yard Areas Generally. [Ord. No. 646 §2; Ord. No. 653 §2; Ord. No. 1294 §10, 6-17-1997; Ord. No. 1310 §2, 9-16-1997; Ord. No. 1488 §26, 10-17-2000]

Every part of a required yard shall be open from its lowest point to the sky unobstructed, except as follows:

(a) Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed twenty-four (24) inches into any required yard area;

(b) Ordinary projection of chimneys and flues, not to exceed three (3) feet in width, projecting not to exceed two (2) feet into any required yard area;

(c) Roof overhangs projecting not to exceed twenty-four (24) inches into any required yard area;

(d) Decks and patios shall be constructed in rear and side yards only, and shall not extend into the minimum side yard or any portion of the front yard;

(e) No cornice shall project over the street right-of-way line more than four (4) feet;

(f) Open or enclosed fire escapes, fireproof outside stairways and balconies may project into a required yard area not more than three and one-half (3½) feet.

Section 23-167. Erection of More Than One Building on Single Lot. [Ord. No. 646 §2]

More than one (1) industrial, commercial, multiple dwelling or institutional building may be erected upon a single lot or tract, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such buildings, nor shall there be any change in the intensity of use requirements.

Section 23-168. Setback Requirement Variances. [Ord. No. 804 §1]

Upon the recommendation of the Planning and Zoning Commission, the Board of Aldermen may approve variances of the yard requirements of those lots having a frontage of fifty-nine (59) feet or less, involving the distance from the proposed structure to public roadway right-of-way, to the extent of narrowing those distances. Application for such a variance shall comply with the special use permit procedures contained in Section 23-182.

Division 2
(Reserved) [4]

Section 23-169. (Reserved)

Section 23-169.1. through 23-169.7. (Reserved)

ARTICLE XVII
Nonconforming Structures and Uses

Section 23-170. Nonconforming Uses and Structures Defined. [Ord. No. 646, §2]

A nonconforming land use or structure is one which existed lawfully on the date this chapter or any amendment thereto became effective, and which fails to conform to one or more of the applicable regulations of this chapter or such amendment thereto, except minimum lot area, yard and setback requirements.

A nonconformity shall not be deemed to have existed on the date this chapter or any amendment thereto became effective, unless:

(a) It was in being on a continuous basis and to its fullest extent on such date.

(b) If such nonconformity is a use, such use had not been abandoned as hereinafter defined.

Provided, that nothing in this section shall be deemed to require a change in the plans, construction or designated use of any structure on which actual construction was lawfully begun in good faith prior to such date, if such construction is diligently prosecuted to completion within two years following such date. Actual construction is hereby defined to include the placing of construction materials so that they are in a permanent position and fastened to the earth in a permanent manner.

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[4]. **Editor's Note: Former Division 2, Regulations and Control of the Disturbance of Land Surface Areas, adopted and amended 11-19-1991 by Art. 2 of Ord. No. 1008, 7-15-1997 by §1 of Ord. No. 1297; 3-17-1998 by §1 of Ord. No. 1346; 4-21-1998 by §2 of Ord. No. 1354; 10-17-2000 by §1 of Ord. No. 1492; 8-21-2001 by §1 of Ord. No. 1548; 11-5-2002 by §1 of Ord. No. 1655; and 4-5-2005 by §1 of Ord. No. 1825, was repealed 7-15-2014 by §1 of Ord. No. 2307. For current provisions, see Ch. 10B, Land Disturbance and Stormwater Management.**

Section 23-171. Discontinuance of Nonconforming Use of Land for Storage or Advertising. [Ord. No. 646, §2]

The nonconforming use of open land for storage purposes and advertising signs and bulletin boards shall be discontinued within two years of their becoming nonconforming.

Section 23-172. Continuation of Use or Structure; Change to Permitted Use. [Ord. No. 646, §2]

An existing nonconforming land use or structure shall not cause further departures from this chapter. Although an existing nonconformity may be continued except as herein limited, it may not be changed to another use except a use permitted in the district in which it is situated, provided it complies with the requirements of that district.

Section 23-173. Enlargement or Alteration of Nonconforming Use. [Ord. No. 646 §2]

A nonconforming use shall not be enlarged, extended or altered and a structure or part thereof devoted to a nonconforming use shall not be enlarged, extended, constructed, reconstructed or structurally altered, except:

(a) As may be required by law;

(b) In changing the use to one which is permitted in the district in which such use is situated; or

(c) To the extent hereinafter permitted.

Section 23-174. Restoration of Damaged Buildings. [Ord. No. 646 §2]

The restoration of any structure and its use, when such structure has been damaged by fire, explosion, act of God or the public enemy to an extent less than sixty percent of its replacement value at the time of destruction, may be permitted, provided the restoration of such structure and its use in no way increases any former nonconformity; and provided, further, that restoration of such structure is begun within six months of such damage an diligently prosecuted to completion within two years following such damage. Where damage to the structure is more than sixty percent of the replacement value at the time of damage, the structure shall not be restored except in full conformity with all the regulations of the district in which such structure is situated. However, none of the restrictions contained in this section shall limit the authority of the board of adjustment to grant relief for reconstruction of a nonconforming use if it finds some compelling public necessity requiring the continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.

Section 23-175. Abandonment. [Ord. No. 646 §2]

In the event that a nonconforming use of any building or premises is discontinued for a period of two years, the use shall be deemed abandoned. Thereafter, the use of such

building or premises shall conform to the uses permitted in the district in which it is located.

ARTICLE XVIII
Administration and Enforcement

Section 23-180. Processing of Permitted Uses and Developments. [Ord. No. 646 §2; Ord. No. 962 §1, 7-3-1990; Ord. No. 1488 §27, 10-17-2000]

(a) When one or more structures are to be erected on a lot or tract which is zoned to permit such development as a use by right, no construction permit shall be issued, other than for permitted single-family detached dwellings and their associated uses, without review and approval of a site development plan by the zoning commission. The zoning commission shall determine that the proposed development complies with applicable Code requirements regarding access, parking standards, setback requirements, on the site circulation, landscape and fencing details and general compatibility with established or projected land use patterns.

(b) Copies of a development plan reflecting the nature of the proposed development shall be submitted to the zoning commission along with such data and information which may be prescribed by that board, including an engineering study for floodproofing the sites or structures within the designated floodplain, so as to assure the fullest practicable presentation of facts for analysis and for the permanent record. Such information shall include, but not be limited to, the following:

(1) A site plan showing proposed uses and structures;

(2) Existing and proposed contours at intervals of two feet or less referred to sea level datum;

(3) Location of all isolated trees having a diameter of six inches or more, and all tree masses;

(4) Proposed ingress and egress to the site, including on-site parking areas and adjacent streets;

(5) Proposed landscaping, including type and size of planting and fencing; and

(6) Two section profiles through the site showing building form and mass.

(c) Upon approval of the submitted or revised development plan by the zoning commission, application for construction permits and certificates of occupancy may take place at the office of the building commissioner.

(d) No buildings, facilities, establishments or service concerns may occupy or use any portion of the subject tract until the required improvements are constructed or a performance bond or escrow agreement is posted covering construction of improvements as determined by the building commissioner. If the development is to occur in sections, all improvements necessary to the proper operation and functioning of the section, even though same may be located outside the section, must be constructed and installed, or a performance bond or escrow agreement

posted covering the estimated cost of improvements, as determined by the zoning commission.

(e) Every single-family dwelling hereafter erected or structurally altered shall be located on a separate lot or tract, and in no case shall there be more than one single-family dwelling on one lot or tract except for accessory buildings or uses, as defined herein, and except for any structure authorized as part of a planned or special district or similar procedure requiring submission to the zoning commission of a site plan for review and approval.

PROCEDURE FOR PROCESSING OF PERMITTED USES

Applicant

Application for Building or
Occupancy Permit and Site Plan
Submitted to Building Commissioner

If Permitted Single-Family Home, Review by Building Commissioner only	Zoning Commission Review of Site Plan
	Denial by Zoning Commission
	Approval of Site Plan by Zoning Commission
	Revised Plan Submitted by Applicant
	Construction Permit or Certificate of Occupancy Issued

Section 23-181. Processing of Amendments to Chapter. [Ord. No. 646 §2; Ord. No. 680 §7; Ord. No. 1099 §1, 5-17-1994; Ord. No. 1338 §1, 2-17-1998]

(a) *Generally.* The board of aldermen may, from time to time, on its own motion, upon recommendation of the zoning commission or on petition, amend, supplement, change, modify or repeal by ordinance the boundaries, districts, regulations or restrictions established in this chapter. Any amendment, supplement, change,

modification or repeal shall first be submitted to the zoning commission for its recommendation and report.

(b) *Petition.*

(1) Petitions for any change of zoning district classification as indicated on the zoning district map of the city shall be addressed to the board of aldermen and filed with the city administrator upon forms prescribed for that purpose and accompanied by such plans, data and other information as may be required by the zoning commission so as to assure the fullest practicable presentation of facts, and accompanied by a fifty-dollar nonrefundable filing fee.

(2) Each such petition, other than those initiated by the board of aldermen or the zoning commission, shall be verified by at least one of the owners or authorized representatives of the owner of the property in question, attesting to the truth and accuracy of all facts and information presented therein. The petitioner, at his option, may request that a verbatim record be made of the public hearing. If the petitioner elects to request a verbatim record, the actual cost of such shall be borne by the petitioner, and the petitioner shall deposit one hundred dollars toward the cost of such, to be appropriately adjusted when the actual cost is known.

(3) Upon filing of the petition with the city administrator or upon initiation of a resolution of intention by the board of aldermen or the zoning commission, the city administrator shall:

a. Cause public notice of hearing to be given as follows: Publication at least once in some daily, tri-weekly, semi-weekly or weekly newspaper of general circulation in the city which shall have been admitted to the post office as second class matter and shall have been published regularly and consecutively for a period of three years. Publication shall commence not more than thirty nor less than fifteen days before the hearing date. Every affidavit of proof of publication shall state that such publication and the newspaper in which notice was published have met the requirements of the foregoing provisions and those of chapter 493 of the Revised Statutes of Missouri, governing legal publications, notice and advertisement. Notice shall contain, in addition to the legal description of the parcel of land, the approximate street location or address when possible, the name of the person seeking the zoning change, the present zoning district classification and the zoning district classification sought.

b. Cause a sign or signs to be placed on each parcel of land on which an application for a zoning district change has been filed with the zoning commission. Such sign or signs shall be placed on such land at least fifteen days prior to the public hearing to be held by the zoning commission, and shall be posted in a conspicuous place upon such land at a point nearest to the right-of-way of any street or roadway abutting such land, and so as to be clearly visible to the traveled portion of such

street or roadway. The city administrator shall determine the number of additional signs to be placed that may be necessary to carry out the intent of this Section. Such public notice sign shall contain information indicating the date and time of public hearing, zoning change requested, place where the public hearing is to be held and additional information determined necessary to inform the public as to the nature of the pending petition. In the case of a City of Eureka initiated rezoning application, such public hearing signage posting requirement is waived, and in lieu of the posting of such signage, the City shall take all reasonable efforts to notify the owner of record of the subject property, as well as the owners of record of all adjoining property, of the public hearing by means of certified mail of the proposed rezoning.

(c) *Publication of proposed general amendments.* Amendments to this chapter which are of general nature, not pertaining to a specific property as in the case of a change in the boundaries of a zoning district, shall require publication of notice at least once in some daily, tri-weekly, semi-weekly or weekly newspaper of general circulation in the city which shall have been admitted to the post office as second class matter and shall have been published regularly and consecutively for a period of three years. Publication shall commence not more than thirty nor less than fifteen days before the hearing date. Every affidavit of proof of publication shall state that such publication and the newspaper in which notice was published has met the requirements of the foregoing provisions and those of chapter 493 of the Revised Statutes of Missouri, governing legal publications, notice and advertisement. Public notice for such general amendments shall not require posting of any signs. It shall not be necessary to publish notice or hold public hearings on amendments to this chapter pertaining to procedural matters and to the duties and powers of officials, officers, boards, commissions and bureaus in carrying out the regulations of this chapter.

(d) *Public hearing.* The zoning commission shall hold a public hearing on the proposed amendment petition within sixty days of the filing of a petition fully complying with the submission requirements.

(e) *Review.* Subsequent to public hearing, the zoning commission shall review all pertinent data, plans and other information presented to determine whether the subject proposal is consistent with sound planning practice, is compatible with existing area uses and developments, is not detrimental to the comprehensive city planning effort and is deemed desirable to promote the general welfare.

(f) *Submission of commission report.* The zoning commission shall then submit its report and recommendation to the board of aldermen for action. The zoning commission may recommend and the board of aldermen may enact by ordinance a zoning district classification other than that requested in the petition; provided, that the recommendation or ordinance is for a district classification of the same use type as that requested by the petitioner. District classification of the same use type as referred to in this section shall include Planned Commercial District in the C district classification and Planned Industrial District in the M district classification when a

petition proposes a particular use and presents plans at or prior to the public hearing which are substantially similar to those required by the processing procedures for planned districts.

(g) *Action by board.* If a bill granting or denying the application is not introduced by the board of aldermen within ninety days after a report thereon by the zoning commission is received by the board of aldermen at a regular meeting, it shall be deemed denied, unless extended by resolution of the board of aldermen during the ninety-day period. No provision herein shall be construed to prevent the board of aldermen from initiating the procedure provided in this section by a resolution of intention at any time.

(h) *Subsequent applications.* From the date of the receipt and filing by the board of aldermen of the zoning commission's report and recommendation regarding a requested amendment to the zoning district boundaries of the city, no subsequent application requesting the same classification for the same tract of land or part thereof shall be accepted for processing within a twelve month period. However, any request for withdrawal of a legally filed petition may be denied, approved with prejudice or approved without prejudice by the zoning commission prior to official receipt and filing of the zoning commission's report and recommendation by the board of aldermen.

(i) *Appeal procedure.*

(1) *Appeal by petitioner from recommendation of denial.* Upon a recommendation of denial by the zoning commission of a petition, the applicant may file an appeal with the board of aldermen requesting a determination from that body. The appeal shall be in writing, filed within thirty days after the zoning commission's report is received by the board of aldermen at a regular board meeting and shall address the objections set forth in the commission's report recommending denial.

(2) *Public hearing by board.* Upon receipt of an appeal, the board of aldermen shall refer it to the zoning commission. The zoning commission shall report thereon to the board of aldermen disclosing in what respect the application and facts offered in support of the appeal either failed to alter the original recommendation or presented new facts or modifications which could warrant support of the application. The board of aldermen may affirm, reverse or modify, in whole or in part, any determination of the zoning commission. Before acting on any appeal, the board shall set the matter for public hearing and give written notice to the person filing the appeal and to all other persons who spoke on the matter of the petition at the public hearing before the zoning commission. An affirmative vote of two-thirds of the members of the whole board of aldermen shall be required to reverse, modify or amend any determination of the zoning commission. A majority vote of the whole board of aldermen shall be sufficient to affirm any determination of the zoning commission.

(j) *Applications for permits, etc.* Upon final approval of the petition by the board of aldermen applications for construction permits and certificates of occupancy may take place at the office of the building commissioner.

(k) Any application fees or deposits required by the City in conjunction with any application for action under this section is intended to defray the cost of review, analysis and consideration of same. Such costs may include, but not be limited to, legal or informational publications, signage, legal reviews, engineering and architectural reviews, ordinance preparation, hearings, surveys, studies and any other direct, indirect or third party costs. In the event that such fees are insufficient to cover such total costs for a specific application, the applicant shall deposit with the City such additional sums to cover the entire cost of such review upon request by the City.

PROCEDURE FOR PROCESSING OF ZONING ORDINANCE AMENDMENTS

Applicant

Petition Submitted to
City Administrator*

Zoning Commission Public
Hearing and Review
(Recommendation to Board of Aldermen)

Denial Recommended Approval Recommended

Appeal by Applicant

Board of Aldermen
Public Hearing Review by Board of Aldermen

Denial of Petition

Approval by Board of Aldermen (Ordinance Adopted)

Applicant Applies for Building or Occupancy Permit as
Outlined in Procedure for Processing of Permitted Uses

* Address to Board of Aldermen

Section 23-182. Processing of Planned District Applications, Community Unit Plan and Special Use Permits. [Ord. No. 646 §2; Ord. No. 660 §§1, 2; Ord. No. 680 §8; Ord. No. 1194 §1, 5-17-1994; Ord. No. 1813 §2, 1-4-2005]

(a) The board of aldermen or the zoning commission, on their own motion, may initiate the establishment of a Planned Commercial or Planned Industrial District by the same basic procedure as specified in subsection (a) of section 23-181 and further may, but need not provide a development plan or adopt detailed development conditions.

(b) Every petition for establishment of a planned commercial or planned industrial district or community unit plan or special use permit, other than by motion of the board of aldermen or zoning commission to develop land previously established as a planned district by action of the board of aldermen, or petition for use requiring a special use permit, shall be addressed to the board of aldermen and filed with the city administrator on forms prescribed for that purpose and accompanied by a fifty dollar nonrefundable filing fee. The petitioner, at his option, may request that a verbatim record be made of the public hearing. If the petitioner elects to request a verbatim record, the actual cost of such shall be borne by the petitioner, and the petitioner shall deposit one hundred dollars toward the cost of such, to be appropriately adjusted when the actual cost is known. In addition, the petitioner for establishment of a planned commercial or planned industrial district or community unit plan or, when applicable, special use permit shall submit a preliminary development plan in such detail as to include the following:

(1) Preliminary site plan, showing proposed uses and structures.

(2) Existing and proposed contours at intervals of two feet or less, referred to sea level datum.

(3) Location of all isolated trees having a diameter of six inches or more, and all tree masses.

(4) Two section profiles through the site, showing preliminary building form.

(5) The proposed ingress and egress to the site, including adjacent streets.

(6) A preliminary plan for provision of sanitary sewers and storm water drainage facilities.

(c) Verification of accuracy of the petition and plan, public notification of public hearing by publication and the posting of a public notice sign upon the property in question, and the public hearing procedure shall be the same as that required for any other change of zoning as described in section 23-181.

(d) The planning and zoning commission and board of aldermen shall consider the impact and make a factual determination of applications as to each of the following:

(1) Character of the neighborhood.

(2) Traffic conditions.

(3) Public Utility facilities.

(4) Fire hazards.

(5) General welfare of the community.

(6) The appropriateness and compatibility of the proposed use for the subject property.

(e) The zoning commission shall forward its recommendation for approval or denial of the application to the board of aldermen indicating the rationale and planning considerations on which such recommendation is based. If the recommendation is one of approval, it shall contain recommended development conditions to be incorporated into an ordinance authorizing approval of the application. The conditions shall include but not be limited to:

(1) Time limitations for submission of the final development plan and commencement of construction;

(2) Specific uses permitted in this district;

(3) Yard requirements:

(4) Off-street parking and loading requirements;

(5) Performance standards; and

(6) Requirement that any transfer of ownership or lease of the property shall include in the transfer or lease agreement a provision that the purchaser or lessee agrees to be bound by the conditions of this development ordinance and plan.

(f) After passage of an ordinance authorizing approval of the petition by the board of aldermen, the developer shall submit the final development plans to the zoning commission within the period of time specified in the ordinance. The plans shall include such information as is required by the zoning commission for adequate consideration of the plan. The plans shall satisfy the subdivision regulations and other pertinent city ordinances where applicable. If in the opinion of the zoning commission the submitted plan substantially deviates from the preliminary development plan approved by the board of aldermen, the commission shall report to the petitioner and the board of aldermen on the manner in which such plan deviates from the approved preliminary plan and, if deemed necessary, forward a resolution of intent to the board of aldermen for the purpose of a new public hearing on the matter in accordance with the proceedings specified in section 23-181.

(g) Within sixty days of approval of the final development plan by the zoning commission, the plan shall be recorded by the developer together with conditions of the ordinance authorizing the establishment of the district in the office of the recorder of deeds in the county.

(h) All conditions relating to or limiting the use, status or operation of the use or development after issuance of a conditional or temporary occupancy permit shall be

posted in a conspicuous public place on the premises prior to the issuance of a permanent occupancy permit. So long as a substantial part of the development remains in single ownership, or ownership of any part of the property is retained or held by the developer or by trustees with duties imposed by this chapter or by conditions imposed under authority hereof, such person or persons shall maintain such list of conditions in a conspicuous public place, and failure to do so shall constitute a violation of this chapter.

(i) No buildings, facilities, commercial establishments or service concerns may occupy or use any portion of the district or site until the required related off-site improvements including but not limited to streets, sidewalks, sanitary and storm sewers, street lights and street trees are constructed or a performance bond or escrow posted covering the estimated cost of construction as determined by the building commissioner.

(j) If substantial construction of development does not begin within a period of time specified in the conditions of the ordinance authorizing establishment of a planned district, the board of aldermen may, on its motion or on a recommendation of the zoning commission, rezone the property or any portion thereof to the zoning district classification that prevailed prior to the approval of the planned district classification. In the case of an application to develop an existing planned district or site governed by a special use permit, the board of aldermen by resolution may revoke the planned district ordinance or special use permit.

(k) The time limitations specified in the ordinance approving the application for submission of final development plans and for completion of construction may be extended by the board of aldermen for cause.

(l) After recording of a final development plan, changes not inconsistent with the purpose of intent of this section may be approved by the zoning commission. Changes affecting the purpose or intent of this section shall require a new petition.

(m) The appeal procedure for any planned district or special use permit petition for which the zoning commission has recommended denial shall be the same as that provided in section 23-181.

(n) Upon approval of the final development plan by the zoning commission and after recording the same together with accompanying development conditions in the office of the recorder of deeds of the county, applications for construction permits and certificates of occupancy may take place at the office of the building commissioner.

(o) Special use permits and conditions thereof shall not be required to be recorded in the office of the recorder of deeds of the county, nor shall the passage of an ordinance be required to approve such special use permits.

(p) Changes, alterations or modifications of the conditions to the approval of applications for planned districts or special use permits shall be processed as anew application.

(q) Violation of any condition to the approval of applications for planned districts or special use permits shall be cause for revocation of the approved permit or district. Notification of violation shall be processed as set forth in section 23-183.

(r) Any application fees or deposits required by the City in conjunction with any application for action under this section is intended to defray the cost of review, analysis and consideration of same. Such costs may include, but not be limited to, legal or informational publications, signage, legal reviews, engineering and architectural reviews, ordinance preparation, hearings, surveys, studies and any other direct, indirect or third party costs. In the event that such fees are insufficient to cover such total costs for a specific application, the applicant shall deposit with the City such additional sums to cover the entire cost of such review upon request by the City.

PROCEDURE FOR PROCESSING OF PLANNED DISTRICTS (WITH OR WITHOUT ACCOMPANYING REZONING) AND SPECIAL USE PERMITS

Applicant

Petition and Development Plan
Submitted to City Administrator*

Zoning Commission Public Hearing
and Review (Recommendation to Board of Aldermen)

Denial Recommended Approval Recommended

Appeal by Applicant

Board of Aldermen Public Hearing Review by Board of Aldermen

Denial of Application

Approval by Board of Aldermen (Ordinance Adopted and Preliminary Development Plan Approved)

Note: steps below not required for Special Use Permits.

Final Development Plan Submitted by Applicant to Zoning

Commission

Final Development Plan Approved by Zoning Commission and Recorded by Applicant

Applicant Applies for Building or Occupancy Permit Issued by the Building Commissioner

* Address to Board of Aldermen.

Section 23-183. Enforcement of Chapter; Penalties for Violation. [Ord. No. 646, §2]

It shall be the duty of the mayor, through the proper departments to enforce this chapter.

The owner or agent of a building or premises in or upon which a violation of any provision of this chapter has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist; or the owner, 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 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 ten dollars and not more than five hundred dollars for each day that such violation continues, or by imprisonment for ten days for each day such violation shall continue, or by both such fine and imprisonment, in the discretion of the court.

Any such person who, having been served with an order to remove any such violation, shall fail to comply with the order within ten days after such service, or shall continue to violate any provision of the regulations made under authority of this chapter in the respect named in such order, shall also be subject to a civil penalty of five hundred dollars.

ARTICLE XIX
Board of Adjustment

Section 23-190. Establishment; Composition; Appointment; Term of Office, Etc. [Ord. No. 646, §2.; Ord. No. 1099 §§2 — 3, 5-17-1994]

The Board of Adjustment is hereby established. The word "board", when used in this article, shall be construed to mean the Board of Adjustment. The Board shall consist of five (5) members who shall be City residents appointed by the Mayor and approved by the Board of Aldermen. The term of office of the members of the Board of Adjustment shall be for five (5) years; except, that the five (5) members first appointed shall serve respectively for terms of one (1) year, two (2) years, three (3) years, four (4) years and five (5) years each. Not more than two (2) members of the Board shall be members of the planning and zoning commission. Vacancies shall be filled for the unexpired term only.

Members shall be removed for cause by the Mayor and Board of Aldermen upon written charges and after public hearing. Three (3) alternate members may be appointed to serve in the absence of or the disqualification of the regular members.

Section 23-191. Election of Officers; Adoption of Rules and Regulations. [Ord. No. 646, §2.; Ord. No. 1099 §§2 — 3, 5-17-1994]

The Board of Adjustment shall elect its own chairman, vice-chairman, and secretary who shall serve for one (1) year. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this chapter.

Section 23-192. Meetings. [Ord. No. 928 §2; Ord. No. 1099 §§1 %%'entity-mdash'%% 3, 5-17-1994]

(a) Meetings for the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, 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 each 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 Board and shall be a public record. All testimony, objections thereto and rulings thereon shall be taken down by a court reporter employed by the Board for that purpose. The cost of the court reporter and legal publications shall be taxed against the applicant, who shall pay a deposit in the amount of two hundred dollars ($200.00) against such cost at the time of the filing of the application.

(b) Any application fees or deposits required by the City in conjunction with any application for action under this section is intended to defray the cost of review, analysis and consideration of same. Such costs may include, but not be limited to, legal or informational publications, signage, legal reviews, engineering and architectural reviews, ordinance preparation, hearings, surveys, studies and any other direct, indirect or third party costs. In the event that such fees are insufficient to cover such total costs for a specific application, the applicant shall deposit with the City such additional sums to cover the entire cost of such review upon request by the City.

Section 23-193. Appeals. [Ord. No. 646, §2]

Appeals to the board of adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the city affected by any decision of the building commissioner regarding provisions of this chapter. Such appeal shall be taken within a reasonable time, as shall be prescribed by the board by general rule, by filing with the building commissioner and with the board a notice of appeal specifying the grounds thereof. The building commissioner shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from is taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the building commissioner certifies to the board, after the notice of appeal shall have been filed with him, that, by reason of fact stated in the certificate, a stay would, in his 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 on notice to the building commissioner and on due cause shown.

The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

Section 23-194. Powers and Duties Generally. [Ord. No. 646 §2; Ord. No. 929 §2; Ord. No. 1499 §1, 12-5-2000]

The board of adjustment shall have the following duties and powers:

(a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the building commissioner in the enforcement of this chapter.

(b) To permit the erection and use of a building or the use of premises in any location for a public service corporation or for public utility purposes necessary to the public convenience or welfare.

(c) To interpret the provisions of this Chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning district map fixing the several districts, where the street layout actually on the ground varies from the street layout as shown on the map.

(d) Permit a variation in the yard requirements of any zoning district, or the setback line requirements for location or placement of signs near highway rights-of-way, or the building or setback lines for major highways as provided by law where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographic or similar conditions, provided such variation will not seriously affect any adjoining property or the general welfare.

(e) Permit a variation in the sign requirements of any zoning district for business signs only up to thirty percent (30%) increase in sign size and up to twenty-five percent (25%) increase in height where the petitioner files a plot plan and scaled layout design in duplicate and demonstrates that otherwise there would be a hardship to the public seeking this particular commodity or service and where the petitioner demonstrates that the increased sign size and height would not be injurious to the neighborhood or otherwise detrimental to the public welfare. In the case of a pole sign, the measurement as the basis for a variation in height shall begin at the point of the pole which is at the elevation of the adjacent road pavement. In making its decision the Board must be satisfied that the granting of such variance will not merely serve as a convenience to the applicant but will alleviate such demonstrable

and unusual hardship or difficulty, which is unique to the petitioner in his use, so great as to warrant a variation from the sign regulations as established by this Code and at the same time place conditions upon such variance if necessary so that the surrounding property will be properly protected.

(f) Authorize, upon appeal, a variation in the use provisions of this Chapter whenever a property owner can show that a strict application of the terms of this Chapter relating to the use, construction or alteration of buildings or structures, or the use of land, will impose upon him practical difficulties or particular hardships. Such variations of the strict application of the terms of this Chapter as are in harmony with its general intent and purpose may be authorized only when the Board is satisfied that the granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variation from the comprehensive plan or any zoning ordinance passed or enacted by the Board of Aldermen, and at the same time the surrounding property will be properly protected.

In exercising the above mentioned powers, the Board may, in conformity with the provisions of the law, 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 of the powers granted to the Building Commissioner under the provisions of this Chapter.

The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Commissioner, or to decide in favor of the application on any matter upon which it is required to pass under this Chapter, or to effect any variation in this Chapter.

Section 23-195. Appeals to Circuit Court. [Ord. No. 646 §2]

Any person or persons jointly or severally aggrieved by any decision of the board of adjustment may present to the circuit court of the county a petition duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board to review such decision of the board and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall be not less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

The board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, in bad faith or with malice in making the decision appealed from.

ARTICLE XX
Telecommunications Facilities

Section 23-196. Purposes. [Ord. No. 1503 §2, 1-2-2001]

The purposes of these regulations are to:

(1) Provide for the appropriate location and development of telecommunications facilities and systems to serve the citizens and businesses of the City of Eureka;

(2) Minimize adverse visual impacts of antennas and antenna support structures through the careful design, siting, landscape screening and innovative camouflaging techniques;

(3) Maximize the use of existing and new antenna support structures so as to minimize the need to construct new or additional facilities; and

(4) Maximize and encourage the use of disguised support structures so as to ensure the architectural integrity of designated areas within the City and the scenic quality of protected natural habitats.

Section 23-197. Definitions. [Ord. No. 1503 §2, 1-2-2001]

As used in this Article, the following terms shall have the following meanings:

ANTENNA — Any device or array that transmits and/or receives electromagnetic signals for voice, data or video communication purposes including, but not limited to, television, AM/FM radio, microwave, cellular telephone and similar forms of communications, but excluding satellite east stations less than six (6) feet in diameter and any receive-only home television antennas.

ANTENNA SUPPORT STRUCTURE — Any structure designed and constructed for the support of antennas, including any tower or disguised support structure, but excluding those support structures under fifty (50) feet in height owned and operated by an amateur radio operator licensed by the FCC. For purposes of this Section, the term "antenna support structure" shall also include any related and necessary cabinet or shelter.

BUILDING — A structure, other than a residence, not constructed primarily for the support of an antenna but which may be utilized for such purpose in accordance with this Section.

CABINET — A casing or console, not to include a shelter, used for the protection and security of communications equipment associated with one (1) or more antennas where direct access to equipment is provided from the exterior and the horizontal dimensions of which do not exceed four (4) feet by six (6) feet.

CO-USE — The location and use of two (2) or more antennas on a single antenna supporting structure or building.

DISGUISED SUPPORT STRUCTURE — Any freestanding, manmade structure designed or used for the support of antennas, the presence of which is camouflaged or concealed as an architectural or natural feature. Such structures may include, but are not limited to, clock towers, campaniles, observation towers, pylon sign structures (excluding advertising), standard outdoor advertising structures, water towers, artificial trees, flagpoles and light standards.

FAA — The Federal Aviation Administration.

FCC — The Federal Communications Commission.

HEIGHT — The vertical distance measured from the base of a structure at ground level to its highest point, including the main structure and all attachments thereto.

SHELTER — A building for the protection and security of communications equipment associated with one (1) or more antennas 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.

STANDARD OUTDOOR ADVERTISING STRUCTURES — All signs which advertise products, services or businesses which are not located on the same premises as the sign, including billboards, detached pole signs on separate parcels, wall signs and signs otherwise attached to buildings and/or supported by uprights or braces on the ground.

TOWER — A structure designed for the support of one (1) or more antennas, including guyed towers, self-supporting (lattice) towers or monopoles but not disguised support structures or buildings. The term shall also not include any support structures under fifty (50) feet in height owned and operated by an amateur radio operator licensed by the FCC.

Section 23-198. Permit Required. [Ord. No. 1503 §2, 1-2-2001]

A telecommunications facility permit shall be necessary to construct, alter or modify any antenna support structure or to mount any antenna on any building or antenna support structure in any zoning district in the City of Eureka.

Section 23-199. Criteria and Preferences. [Ord. No. 1503 §2, 1-2-2001]

The general criteria and preferences for considering the issuance of a telecommunications facility permit shall be as follows:

(1) *Building Codes and safety standards.* All antennas and antenna support structures shall meet or exceed the standards and regulations contained in applicable State and

local Building and Electrical Codes as well as the applicable standards published by the Electronics Industries Association, as amended from time to time.

(2) *Regulatory compliance.* All antennas and antenna support structures shall meet or exceed current standards and regulations of the FAA, FCC and any other Federal or State agency with the authority to regulate antennas and antenna support structures. Should such standards or regulations be amended, then the owner shall bring devices and structure into compliance with the revised standards or regulations within the time period mandated by the controlling agency.

(3) *Security.* All antenna and antenna support structures shall be protected from unauthorized access by appropriate security devices. A description of proposed security measures shall be provided as part of any application to install, build or modify antennas or support structures. Additional security measures may be required as a condition of the issuance of any permit as deemed necessary by the Board of Aldermen.

(4) *Lighting.* Antenna support structures shall not be lighted unless required by the FAA or other Federal or State agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application for a telecommunications facility permit.

(5) *Advertising.* Unless a disguised support structure is in the form of a standard outdoor advertising structure, the placement of advertising on antenna support structures is prohibited.

(6) *Design.*

(a) Antenna support structures shall maintain a galvanized steel finish or, subject to the requirements of the City or the FAA, FCC or any applicable Federal or State agency, be painted a neutral color consistent with the natural or built environment of the site.

(b) Shelters or cabinets shall have an exterior finish compatible with the neutral or built environment of the site and shall also comply with such other reasonable design guidelines as may be required by the City.

(c) Antennas attached to a building or disguised support structure shall be of a color identical to or closely compatible with the surface to which they are mounted.

(d) Towers shall be surrounded by a landscape strip of not less than ten (10) feet in width and planted with materials which will provide a visual barrier to a minimum height of six (6) feet. The landscape strip shall be exterior to any security fencing. In lieu of the required landscape strip, a minimum six (6) foot high decorative fence or wall may be approved by the City upon demonstration by the applicant that an equivalent degree of visual screening is achieved.

(7) *Location and setback.*

(a) No antenna support structures, excluding disguised support structures, shall be located within one-half (½) mile of another, pre-existing antenna support structure with the distance being measured from the center of the base of the existing structure to the center of the base of the proposed structure. Antenna support structures shall not be located within five hundred (500) feet of any residential structure, or any parcel of property used as a park, playground, school, library, hospital, church, historic district, landmark, or an area on the National Register of Historic Places.

(b) The minimum setback from all adjoining property lines shall be that required for principal structures in the applicable zoning district, plus two (2) additional feet for every additional one (1) foot in height in excess of forty-five (45) feet.

(8) *Height.* Antenna support structures shall not exceed a height of thirty-five (35) feet in residential zoning districts or seventy-five (75) feet in commercial and industrial zoning districts, unless a different height is authorized by the Board of Aldermen.

(9) *Co-use.* Prior to the issuance of any telecommunications facility permit, the applicant shall:

(a) Submit a notarized statement agreeing to make the proposed antenna support structure available for use by others, subject to reasonable technical limitations and financial terms.

(b) Furnish an inventory of all known antenna support structures located within one (1) mile of the proposed structure site, identifying the owner of each existing structure as well as the structure's 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 shelters. The applicant shall further demonstrate that he or she has requested co-use of each existing structure from the owner thereof and/or shall indicate why such co-use is inappropriate or was otherwise not allowed.

(c) Antenna support structures may be given consideration to be constructed or modified so as to exceed the height limitations provided herein to accommodate co-use. An applicant may request an extension of twenty (20) additional feet per co-user, whether actual or anticipated, up to a limit of forty (40) additional feet. The City may also require an applicant of new construction to exceed the applicable limitation up to a maximum of forty (40) feet, regardless of whether a co-user is immediately available to share space with the applicant.

(d) In the event that a telecommunications facility permit is granted for the construction of a new antenna support structure, the applicant shall notify in writing any other known potential service providers in that area that the structure will be available for co-use. Said notices shall be issued on or before the day on which the applicant submits to the City an application for building

permit for the structure. The notice shall allow potential co-users thirty (30) days within which to express any interest in co-use, during which time the applicant shall not commit to a design for the structure which precludes co-use, and the City shall not issue a building permit until such time has expired.

(e) The willful and knowing failure of an applicant to agree to co-use or to negotiate in good faith with potential co-users may be cause for either the denial of a pending application, the revocation of an existing telecommunications facility permit, and/or the withholding of future similar permits to the applicant.

(10) *Site selection.*

(a) Sites in the City's non-residential zoning districts are preferred. Sites in any residential zoning district in the City are prohibited absent a determination of necessity by the Board of Aldermen. Within any zoning district, existing antenna support structures and buildings are preferred, as are locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.

(b) Antennas or antenna support structures should be architecturally and visually (color, bulk, size) compatible with surrounding buildings, structures, vegetation, and/or uses in the area or those likely to exist under the regulations of the underlying zoning district.

(c) Antennas and antenna support structures should be located to minimize any adverse effect they may have on neighboring property values.

(d) Antennas and antenna support structures should be located to avoid a dominant silhouette on ridge lines, and preservation of view corridors of surrounding residential developments should be considered.

(11) *Building-mounted antennas.*

(a) Antennas mounted on buildings or structures (other than an antenna support structure) should be made to appear as unobtrusive as possible. Such antennas should be located as far away as feasible from the edge of the building and should be painted a neutral color consistent with the natural or built environment of the site.

(b) Such antennas shall not protrude more than twenty (20) feet from the top of the building or structure unless the City makes a determination that the proposed antenna poses no detrimental effect to public safety or to the surrounding community.

(12) *Miscellaneous.*

(a) Ground anchors of all guyed towers shall be located on the same parcel as the tower and at a minimum shall meet the setbacks of the applicable zoning district.

(b) Vehicle or outdoor storage on the site of any antenna support structure is prohibited.

(c) On-site parking for periodic maintenance and service shall be provided at all locations of antenna support structures.

(d) Prior to the issuance of any telecommunications facility permit, the applicant shall demonstrate how the proposed site fits into the applicant's overall telecommunications network within the City of Eureka and within the St. Louis County area.

(e) Any antenna support structure no longer used for its original communications purpose shall be removed at the owner's expense. The owner and applicable co-users shall provide the City with a copy of any notice to the FCC of intent to cease operations and shall have ninety (90) days from the date of ceasing operations to remove the antenna support structure and any related facilities. In the case of co-use, this provision shall not become effective until all users cease operations, in which case the final user of said antenna support structure shall have ninety (90) days from the date of ceasing operations to remove the antenna support structure and any related facilities.

(f) Prior to the issuance of a telecommunications facility permit, an applicant shall demonstrate proof of liability, Workers' Compensation and any other insurance required by the City, and the City may also require indemnification and bonding as the City deems appropriate. Following issuance of a telecommunications facility permit, proof of such liability insurance, Workers' Compensation insurance, any other insurance and other indemnification or bonding required by the City shall be submitted to the City annually.

Section 23-200. Administrative Authority. [Ord. No. 1503 §2, 1-2-2001]

Upon receipt of an appropriate building permit, the attachment of additional antennas to any antenna support structure existing on the effective date of this Article or subsequently approved in accordance herewith, provided that the existing antenna support structure is not modified to extend the height thereof, is allowed without the issuance of a telecommunications facility permit.

Section 23-201. Telecommunications Facility Permit. [Ord. No. 1503 §2, 1-2-2001]

(a) *Generally.* Applications for telecommunications facility permits shall be filed, processed, reviewed and decided in the manner and time frame established for special use permits under this Chapter except as supplemented by this Section.

(b) *Applications.* In addition to all other filing requirements, the application shall include such information as is required or may otherwise be responsive to the criteria, preferences and considerations established in this Section. City staff, boards and commissions may request that additional information be provided or additional analyses performed in connection with their review of the application, the costs of which shall be paid by the applicant.

Section 23-202. Findings Required. [Ord. No. 1503 §2, 1-2-2001]

In addition to any other considerations required by this Chapter, before issuing a telecommunications facility permit for an antenna, antenna support structure or a building-mounted antenna, the City shall consider and determine the following based upon the evidence submitted:

(1) Whether existing antenna support structures or buildings are located within the geographic network area necessary to meet the applicant's system engineering requirements.

(2) Whether such existing antenna support structures or buildings are of sufficient height to meet system engineering requirements.

(3) Whether such existing antenna support structures or buildings have sufficient structural strength to support the applicant's proposed antenna(s).

(4) Whether such existing antenna support structures or buildings could be altered or modified to meet system engineering requirements or to support the applicant's proposed antenna(s).

(5) Whether the proposed antenna(s) would experience or cause signal interference with antenna(s) on existing antenna support structures or buildings.

(6) Whether the fees, costs, or other contractual terms required by an owner to lease, modify or otherwise provide for co-use on an existing and suitable antenna support structure or building are reasonable.

(7) Whether there are other limiting conditions that render existing antenna support structures or buildings within the applicant's required geographic area unsuitable.

Section 23-203. Determination. [Ord. No. 1503 §2, 1-2-2001]

(a) If the Board of Aldermen determines that in light of the considerations noted in this Section that an application meets the criteria and preferences established in this Section and otherwise is in accordance with this Chapter, the Board of Aldermen shall grant a telecommunications facility permit.

(b) The Board of Aldermen may determine that although an application does not meet the strict requirements of the criteria and preferences established in this Section, that the general purpose and intent of said criteria and preferences are not offended because of the particular circumstances presented. If such a determination is made, the Board of Aldermen may vary the application of the criteria and preferences and grant a telecommunications facility permit, subject to whatever conditions the Board of Aldermen deems appropriate.

(c) The Board of Aldermen may determine that in light of the consideration noted in this Section, that the City's prescribed criteria and preferences effectively would preclude the applicant's reception and/or transmission of signals and that the applicant's proposed location and height are a matter of absolute engineering and economic necessity in order to ensure the completion of the applicant's network. If

such a determination is made, the Board of Aldermen may grant a telecommunications facility permit, subject to whatever conditions the Board of Aldermen deems appropriate.

(d) Any decision by the Board of Aldermen to deny a telecommunications facility permit shall be in writing, based upon the evidence adduced, and shall make specific findings of fact consistent with the criteria, preferences and considerations established herein.

Section 23-204. Appeal. [Ord. No. 1503 §2, 1-2-2001]

Appeals from the Board of Aldermen's denial of a telecommunications facility permit shall be to the Eureka Board of Adjustment or to any court or agency allowed under Federal law.

ARTICLE XXI
Video Services Providers Act

Section 23-210. Ratification of Existing Franchises. [Ord. No. 2028 §1, 1-15-2008]

(a) To the extent permitted by the 2007 Video Services Providers Act, the City of Eureka hereby ratifies all existing agreements, franchises and ordinances regulating cable television operators and other video service providers, including the imposition of a franchise fee of five percent (5%) imposed on the gross revenues of all such providers and further declares that such agreements, franchises and ordinances shall continue in full force and effect until expiration as provided therein, or until pre-empted by the issuance of video service authorizations by the Missouri Public Service Commission or otherwise by law, but only to the extent of said pre-emption.

(b) It shall be unlawful for any person to provide video services, as defined in Section 23-211 hereof, within the City without either an agreement, franchise or ordinance approved by the City or a video service authorization issued by the Missouri Public Service Commission.

Section 23-211. Video Service Regulations. [Ord. No. 2028 §2, 1-15-2008]

(a) *Definitions.* The following terms shall have the following meanings unless otherwise defined by context:

FRANCHISE AREA — The total geographic area of the City authorized to be served by an incumbent cable television operator or incumbent local exchange carrier or affiliate thereof.

GROSS REVENUES — The total amounts billed to subscribers or received from advertisers for the provision of video services within the City, including:

(1) Recurring charges for video service,

(2) Event-based charges for video service, including, but not limited to, pay-per-view and video-on-demand charges,

(3) Rental of set top boxes and other video service equipment,

(4) Service charges related to the provision of video service, including, but not limited to, activation, installation, repair and maintenance charges,

(5) Administrative charges related to the provision of video service, including, but not limited to, service order and service termination charges, and

(6) A pro rata portion of all revenue derived, less refunds, rebates or discounts, by a video service provider for advertising over the video service network to subscribers, where the numerator is the number of subscribers within the City and the denominator is the total number of subscribers reached by such advertising; but gross revenues do not include:

(i) Discounts, refunds and other price adjustments that reduce the amount of compensation received by a video service provider,

(ii) Uncollectibles,

(iii) Late payment fees,

(iv) Amounts billed to subscribers to recover taxes, fees or surcharges imposed on subscribers or video service providers in connection with the provision of video services, including the video service provider fee authorized herein,

(v) Fees or other contributions for PEG or I-Net support, or

(vi) Charges for services other than video service that are aggregated or bundled with amounts billed to subscribers, provided the video service provider can reasonably identify such charges on books and records kept in the regular course of business or by other reasonable means. Except with respect to the exclusion of the video service provider fee, gross revenues shall be computed in accordance with generally accepted accounting principles.

HOUSEHOLD — An apartment, house, mobile home or any other structure or part of a structure intended for residential occupancy as separate living quarters.

LOW INCOME HOUSEHOLD — A household with an average annual household income of less than thirty-five thousand dollars ($35,000.00) as determined by the most recent decennial census.

PERSON — An individual, partnership, association, organization, corporation, trust or government entity.

SUBSCRIBER — Any person who receives video services in the franchise area.

VIDEO SERVICE — The provision of video programming provided through wireline facilities, without regard to delivery technology, including Internet protocol technology, whether provided as part of a tier, on demand or a per-channel basis, including cable service as defined by 47 U.S.C. Section 522(6), but excluding 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.

VIDEO SERVICE AUTHORIZATION — The right of a video service provider or an incumbent cable operator, that secures permission from the Missouri Public Service Commission pursuant to Sections 67.2675 to 67.2714 to offer video service to subscribers.

VIDEO SERVICE NETWORK — Wireline facilities or any component thereof that delivers video service, without regard to delivery technology, including Internet protocol technology or any successor technology. The term "video service network" shall include cable television systems.

VIDEO SERVICE PROVIDER OR PROVIDER — Any person authorized to distribute video service through a video service network pursuant to a video service authorization.

VIDEO SERVICE PROVIDER FEE — The fee imposed under Section 23-211(c) hereof.

(b) *General Regulations.*

(1) A video service provider shall provide written notice to the City at least ten (10) days before commencing video service within the City. Such notice shall also include:

(a) The name, address and legal status of the provider;

(b) The name, title, address, telephone number, e-mail address and fax number of individual(s) authorized to serve as the point of contact between the City and the provider so as to make contact possible at any time (i.e., twenty-four (24) hours per day, seven (7) days per week); and

(c) A copy of the provider's video service authorization issued by the Missouri Public Service Commission.

(2) A video service provider shall also notify the City, in writing, within thirty (30) days of:

(a) Any changes in the information set forth in or accompanying its notice of commencement of video service, or

(b) Any transfer of ownership or control of the provider's business assets.

(3) A video service provider shall not deny access to service to any group of potential residential subscribers because of the race or income of the residents in the area in which the group resides. A video service provider shall be governed in this respect by Section 67.2707, RSMo. The City may file a complaint in a court of competent jurisdiction alleging a germane violation of this Subsection, which complaint shall be acted upon in accordance with Section 67.2711, RSMo.

(4) A video service provider shall comply with all Federal Communications Commission requirements involving the distribution and notification of emergency messages over the emergency alert system applicable to cable operators. Any video service provider other than an incumbent cable operator serving a majority of the residents within a political subdivision shall comply with this Section by December 31, 2007.

(5) A video service provider shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, board members, commissions, commissioners, agents and employees against any and all claims, suits, causes of action, proceedings and judgments ("claims") for damages or equitable relief arising out of:

(a) The construction, maintenance, repair or operation of its video services network,

(b) Copyright infringements, and

(c) Failure to secure consents from the owners, authorized distributors or licenses or programs to be delivered by the video service network. Such indemnification shall include, but is not limited to, the City's reasonable attorney's fees incurred in defending against any such claim prior to the video service provider assuming such defense. The City shall notify the provider of a claim within seven (7) business days of its actual knowledge of the existence of such claim. Once the provider assumes the defense of the claim, the City may at its option continue to participate in the defense at its own expense. This indemnification obligation shall not apply to any claim related to the provision of public, educational or governmental channels or programming or to emergency interrupt service announcements.

(c) *Video Service Provider Fee.*

(1) Each video service provider shall pay to the City a video service provider fee in the amount of five percent (5%) of the provider's gross revenues on or before the last day of the month following the end of each calendar quarter. The City may adjust the video service provider fee as permitted in Section 67.2689, RSMo.

(2) A video service provider may identify and pass through on a proportionate basis the video service provider fee as a separate line item on subscribers' bills.

(3) The City, not more than once per calendar year and at its own cost, may audit the gross revenues of any video service provider as provided in Section 67.2691, RSMo. A video service provider shall make available for inspection all records pertaining to gross revenues at the location where such records are kept in the normal course of business.

(d) *Customer Service Regulations.*

(1) For purposes of this Section, the following terms shall mean:

NORMAL BUSINESS HOURS — Those hours during which most similar businesses in the community are open to serve customers. In all cases the term normal business hours must include some evening hours at least one (1) night per week or some weekend hours.

NORMAL OPERATING CONDITIONS — Those service conditions which are within the control of the video service provider. Those conditions which are not within the control of the video service provider include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the video service provider include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the video system.

SERVICE INTERRUPTION — The loss of picture or sound on one (1) or more video channels.

(2) All video service providers shall adopt and abide by the following minimum customer service requirements.

(a) Video service providers shall maintain a local, toll-free or collect call telephone access line which may be available to subscribers twenty-four (24) hours a day, seven (7) days a week.

(b) Video service providers shall have trained company representatives available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours shall be responded to, by a trained company representative, on the next business day.

(c) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.

(d) Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.

(e) Customer service centers and bill payment locations shall be open at least during normal business hours and shall be conveniently located.

(f) Under normal operating conditions, each of the following standards shall be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:

(i) Standard installations shall be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the video service provider shall begin working on "service interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The video service provider must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls and other installation activities will be either a specific time or, at a maximum, a four (4) hour time block during normal business hours. The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

(iv) A video service provider shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a video service provider's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer must be contacted. The appointment shall be rescheduled, as necessary, at a time convenient for the customer.

(g) Refund checks shall be issued promptly, but no later than either:

(i) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(ii) The return of the equipment supplied by the video service provider if the service is terminated.

(h) Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(i) Video service providers shall not disclose the name or address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video service provider or its affiliates, as required under 47 U.S.C. Section 551, including all notice requirements. Video service providers shall provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name or address.

(3) As required by Section 67.2692, RSMo., this Section 23-211(d) shall be enforced only as follows:

(a) Each video service provider shall implement an informal process for handling inquiries from the City and customers concerning billing issues, service issues and other complaints. If an issue is not resolved through this informal process, the City may request a confidential non-binding mediation with the video service provider, with the costs of such mediation to be shared equally between the City and the video service provider.

(b) In the case of repeated, willful and material violations of the provisions of this Section by a video service provider, the City may file a complaint on behalf of a resident harmed by such violations with Missouri's Administrative Hearing Commission seeking an order revoking the video service provider's Public Service Commission authorization. The City or video service provider may appeal any determination made by the Administrative Hearing Commission under this Section to a court of competent jurisdiction, which shall have the power to review the decision de novo. The City shall not file a complaint seeking revocation unless the video service provider has been given sixty (60) days' notice to cure alleged breaches but has failed to do so.

(e) Public, *Educational and Government Access Programming.*

(1) Each video service provider shall designate the same number of channels for non-commercial public, educational or governmental ("PEG") use as required of the incumbent cable television franchisee as of August 28, 2007.

(2) Any PEG channel that is not substantially utilized by the City may be reclaimed and programmed by the video service provider at the provider's discretion. If the City finds and certifies that a channel that has been reclaimed by a video service provider will be substantially utilized, the video service provider shall restore the reclaimed channel within one hundred twenty (120) days. A PEG channel shall be considered "substantially utilized" when forty (40) hours per week are locally programmed on that channel for at least three (3) consecutive months. In determining whether a PEG channel is substantially utilized, a program may be counted not more than four (4) times during a calendar week.

(3) The operation of any PEG access channel and the production of any programming that appears on each such channel shall be the sole responsibility of the City or its duly appointed agent receiving the benefit of such channel and the video service provider shall bear only the responsibility for the transmission of the programming on each such channel to subscribers. The City must deliver and submit to the video service provider all transmissions of PEG content and programming in a manner or form that is capable of being accepted and transmitted by such video service provider holder over its network without further alteration or change in the content or transmission signal. Such content and programming must be compatible with the technology or protocol utilized by the video service provider to deliver its

video services. The video service provider shall cooperate with the City to allow the City to achieve such compatibility.

(4) The City shall make the programming of any PEG access channel available to all video service providers in a non-discriminatory manner. Each video service provider shall be responsible for providing the connectivity to the City's or its duly appointed agent's PEG access channel distribution points existing as of August 27, 2007. Where technically necessary and feasible, video service providers shall use reasonable effort and shall negotiate in good faith to interconnect their video service networks on mutually acceptable rates, terms and conditions for the purpose of transmitting PEG programming. A video service provider shall have no obligation to provide such interconnection to a new video service provider at more than one (1) point per headend, regardless of the number of political subdivisions served by such headend. The video service provider requesting interconnection shall be responsible for any costs associated with such interconnection, including signal transmission from the origination point to the point of interconnection. Interconnection may be accomplished by direct cable microwave link, satellite or other reasonable method of connection acceptable to the person providing the interconnection.

(5) The franchise obligation of an incumbent cable operator to provide monetary and other support for PEG access facilities existing on August 27, 2007 shall continue until the date of franchise expiration (ignoring any termination by notice of issuance of a video service authorization) or January 1, 2012, whichever is earlier. Any other video service provider shall have the same obligation to support PEG access facilities as the incumbent cable operator, but if there is more than one (1) incumbent, then the incumbent with the most subscribers as of August 27, 2007. Such obligation shall be prorated, depending on the nature of the obligation, as provided in Section 67.2703.8, RSMo. The City shall notify each video service provider of the amount of such fee on an annual basis, beginning one (1) year after issuance of the video service authorization.

(6) A video service provider may identify and pass through as a separate line item on subscribers' bills the value of monetary and other PEG access support on a proportionate basis.

(f) *Compliance with Other Regulations.* All video service providers shall comply with the rights-of-way use and zoning regulations established in Sections 23-212 and 23-213 of this Article and with all other applicable laws and regulations.

Section 23-212. Public Rights-of-Way Use Regulations. [Ord. No. 2028 §3, 1-15-2008]

(a) *Definitions.* The following terms shall have the following meanings unless otherwise defined by context:

CITY ADMINISTRATOR — The City Administrator or such other person designated by the City to hear appeals as provided in Section 23-212(e) hereof.

CITY FACILITIES — Any facilities located within the public rights-of-way and owned by the City.

DIRECTOR — The City's Public Works Director or such other person designated to administer and enforce this Article.

EMERGENCY RIGHTS-OF-WAY (OR "ROW") WORK — Includes, but is not limited to, ROW work made necessary by exigent circumstances to repair, control, stabilize, rectify or correct an unexpected or unplanned outage, cut, rupture, leak or any other failure of a facility when such failure results or could result in danger to the public or a material delay or hindrance to the provision of service.

FACILITIES — A network or system or any part thereof used for providing or delivering a service and consisting of one (1) or more lines, pipes, wires, cables, fibers, conduit facilities, cabinets, poles, vaults, pedestals, boxes, appliances, antennas, transmitters, radios, towers, gates, meters, appurtenances or other equipment.

PERSON — An individual, partnership, limited liability corporation or partnership, association, joint stock company, trust, organization, corporation or other entity or any lawful successor thereto or transferee thereof.

PERSON(S) HAVING FACILITIES WITHIN THE RIGHTS-OF-WAY — Any person having ownership or control of facilities located within the rights-of-way.

RIGHTS-OF-WAY OR ROW — Unless otherwise restricted herein, the surface, air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, parkway, waterway, public easement or sidewalk in which the City now or hereafter holds any interest, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining facilities. "Rights-of-way" shall not include:

(1) City facilities or the City's property other than ROW, such as City-owned or operated buildings, parks or other similar property,

(2) Airwaves used for cellular, non-wire telecommunications or broadcast services,

(3) Easements obtained by ROW users on private property,

(4) Railroad rights-of-way or ground used or acquired for railroads, or

(5) Facilities owned and used by the City for the transmission of one (1) or more services. No reference herein to "rights-of-way" shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for the delivery of service.

RIGHTS-OF-WAY (OR "ROW") PERMIT — A permit granted by the City to a ROW user for ROW work.

RIGHTS-OF-WAY (OR "ROW") USER — A person performing ROW work within the rights-of-way. A ROW user shall not include ordinary vehicular or pedestrian use.

RIGHTS-OF-WAY (OR "ROW") WORK — Action by a ROW user to:

(1) Install, change, replace, relocate, remove, maintain or repair facilities located within the rights-of-way, or

(2) To conduct work of any kind within or adjacent to the rights-of-way that results in an excavation, obstruction, disruption, damage or physical invasion or impact of any kind to the rights-of-way or the use thereof. The routine inspection of facilities shall not be considered ROW work unless the inspection requires the conduct of any of the activities or actions noted herein.

SERVICE — Providing or delivering an economic good or an article of commerce, including, but not limited to gas, telephone, cable television, Internet, open video systems, video services, alarm systems, steam, electricity, water, telegraph, data transmission, petroleum pipelines, sanitary or storm water sewerage or any similar or related service, to one (1) or more persons located within or outside of the City by use of facilities located within the rights-of-way.

WITHIN — In, along, under, over or across rights-of-way.

(b) *ROW Permits.*

(1) *Application requirements.*

(a) Any person desiring to perform ROW work must first apply for and obtain a ROW permit, in addition to any other building permit, license, easement, franchise or authorization required by law. In the event of a need for emergency ROW work, the person conducting the work shall as soon as practicable notify the City of the location of the work and shall apply for the required ROW permit as soon as practicable following the commencement of the work, not to exceed the third (3rd) business day thereafter. The Director may design and issue general permits for emergency ROW work for several different locations or throughout the City.

(b) An application for a ROW permit shall be submitted to the Director. The Director may design and make available standard forms for such applications, requiring such information as allowed by law and as the Director determine in his or her discretion to be necessary and consistent with the provisions of this Article and to accomplish the purposes of this Article. Each application shall at a minimum contain the following information for the proposed ROW work, unless otherwise waived by the Director:

(i) The name, address and telephone number of a representative whom the City may notify or contact at any time (i.e., twenty-four (24) hours per day seven (7) days per week) concerning the work;

(ii) If different from the applicant, the name, address and telephone number of the person on whose behalf the proposed work is to be performed;

(iii) A description of the proposed work, including a conceptual master plan and engineering site plan or other technical drawing or depiction showing the nature, dimensions, location and description of the applicant's proposed work or facilities, their proximity to other facilities that may be affected by the proposed work and the number of street crossings and their locations and dimensions, if applicable;

(iv) Projected commencement and termination dates and anticipated duration of the work or, if such dates are unknown, a representation that the applicant shall provide the Director with reasonable advance notice of such dates once they are determined;

(v) Copies of any required Certificates of Insurance or performance and maintenance bonds.

(c) The information required by the application may be submitted in the form maintained by the applicant, provided it is responsive to the application's requirements and the applicant shall be allowed a reasonable amount of time to complete the application based on the amount of data or information requested or required.

(d) Each such application shall be accompanied by the following payments:

(i) An application fee approved by the City to cover the cost of processing the application;

(ii) Any other amounts due to the City from the applicant including, but not limited to, prior delinquent fees, costs and any loss, damage or expense suffered by the City because of the applicant's prior work in the rights-of-way or for any emergency actions taken by the City, but the Director may modify this requirement to the extent he determines any such fees to be in good faith dispute.

(e) Applicants shall participate in any joint planning, construction and advance notification of such work, including coordination and consolidation of any excavation of or disturbance to the rights-of-way, as directed by the Director. When deemed necessary to accomplish the goals of this Section and to the extent permitted by law, the City reserves the right, when feasible and reasonable, to require the sharing of facilities by ROW users. Applicants shall cooperate with each other and other ROW users and the City for the best, most efficient, least intrusive, most aesthetic and least obtrusive use of the rights-of-way.

(f) The Director shall establish procedures allowing applicants to ascertain whether existing capacity may be available from other persons utilizing the rights-of-way along the intended path of any proposed work. The Director shall also maintain indexes of all ROW permits issued, both by the ROW user and by the affected rights-of-way.

(2) *Application review and determination.*

(a) The Director shall promptly review each completed application for a ROW permit and shall grant or deny all such applications as provided herein within thirty-one (31) days of receipt thereof. Unless the application is denied, the Director shall issue a ROW permit upon determining that the applicant:

(i) Has submitted all necessary information,

(ii) Has paid the appropriate fees, and

(iii) Is in full compliance with this Article and all other City ordinances. The Director may establish procedures for bulk processing of applications and periodic payment of fees to avoid excessive processing and accounting costs.

(b) It is the intention of the City that interference with, damage to, excavation or disruption of or the placement of facilities within the City's rights-of-way should be minimized and limited in scope to the extent allowed by law to achieve the purposes of this Article. When reasonable and necessary to accomplish such purposes, the Director may require as alternatives to the proposed ROW work either less disruptive methods or different locations for facilities, provided that any required alternative:

(i) Shall not increase expenses by more than ten percent (10%) of the applicant's costs for the work as proposed,

(ii) Shall not result in a decline of service quality, and

(iii) Shall be competitively neutral and non-discriminatory. The Director shall justify to the applicant that the required alternative is reasonable and necessary.

(c) Upon receipt of an application, the Director shall determine whether any portion of the rights-of-way will be affected by the proposed work and whether the interference, disruption or placement of facilities will be more than minor in nature. In determining whether the proposed work is more than minor in nature, the Director shall consider the nature and scope of the work, its location and duration and its effect on the rights-of-way, the use thereof and neighboring properties.

(i) If the applicant can show to the Director's reasonable satisfaction that the work involves no interference, disruption, excavation or damage to or only minor interference with the rights-of-way or that the work does not involve the placement of facilities or involves time-sensitive maintenance, then the Director shall promptly grant the ROW permit.

(ii) If the Director determines that the effect on the rights-of-way will be more than minor in nature and no exemption under the above paragraph (c)(1) or any other provision of this Article applies, the Director shall schedule and coordinate the work and grant the ROW permit accordingly. When reasonable and necessary to accomplish the purposes of this Article, the Director may postpone issuance of a ROW permit and may give public notice of the application in an attempt to identify whether other person(s) intend to do work in the same area within a reasonable period of time, so that all ROW work in the area can be coordinated. Due regard shall be accorded applicants that are required by any law, rule, regulation, license or franchise to provide service to the area defined in the application. The Director shall not impose any coordination or scheduling requirements that prevent or unreasonably delay an applicant's access to the ROW or that create a barrier to entry.

(d) Each ROW permit issued by the Director shall include:

(i) Projected commencement and termination dates or, if such dates are unknown at the time the permit is issued, a provision requiring the ROW user to provide the Director with reasonable advance notice of such dates once they are determined;

(ii) Length of affected rights-of-way, number of road crossings and identification and description of any pavement or curb cuts included in the work;

(iii) Information regarding scheduling and coordination of work, if necessary;

(iv) The location of any of the applicant's facilities, both those proposed and existing, and the location of any known facilities owned by another person that may be affected by the proposed work;

(v) An acknowledgment and representation by the applicant to comply with the terms and conditions of the ROW permit and this Article; and

(vi) Such conditions and requirements as are deemed reasonably necessary by the Director to protect structures and other facilities in the rights-of-way from damage, to restore such rights-of-way and any structures or facilities, to ensure the reasonable continuity and sight lines of pedestrian and vehicular traffic and to protect property values, the aesthetics of adjoining properties and neighborhoods and the public health, safety and welfare.

(e) The Director may deny an application, if denial is deemed to be in the public interest, for the following reasons:

(i) Delinquent fees, costs or expenses owed by the applicant;

(ii) Failure to provide information required by the application or this Article;

(iii) The applicant being in violation of the provisions of this Article or other pertinent and applicable City ordinances;

(iv) Failure to return the ROW to its previous condition under previously issued ROW permits or after prior excavations by the applicant;

(v) For reasons of environmental, historic or cultural sensitivity as defined by applicable Federal, State or local law;

(vi) For the applicant's refusal to comply with alternative ROW work methods, locations or other reasonable conditions required by the Director; and

(vii) For any other reason to protect the public health, safety and welfare, provided that such denial does not fall within the exclusive authority of the Missouri Public Service Commission or interfere with a ROW user's right of eminent domain of private property and, provided further, that such denial is imposed on a competitively neutral and non-discriminatory basis.

(3) *Permit revocation and ordinance violations.*

(a) The Director may revoke a ROW permit without fee refund after notice and an opportunity to cure, but only in the event of a substantial breach of the terms and conditions of the permit or this Article. Prior to revocation, the Director shall provide written notice to the ROW user identifying any substantial breach and allowing a reasonable period of time not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety. The cure period shall be extended by the Director on good cause shown by the ROW user. A substantial breach includes, but is not limited to, the following:

(i) A material violation of a provision of the ROW permit or this Article;

(ii) An evasion or attempt to evade any material provision of the ROW permit or this Article or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its residents;

(iii) A material misrepresentation of fact in the ROW permit application;

(iv) A failure to complete ROW work by the date specified in the ROW permit, unless an extension is obtained or unless the failure to

complete the work is due to reasons beyond the ROW user's control; and

(v) A failure to correct, upon reasonable notice and opportunity to cure as specified by the Director, work that does not conform to applicable national safety ordinances, industry construction standards, this Article or any other applicable ordinances, provided that City standards are no more stringent than those of a national safety ordinance.

(b) Any breach of the terms and conditions of a ROW permit shall also be deemed a violation of this Article and in lieu of revocation, the Director may initiate prosecution of the ROW user for such violation.

(c) *Work In the ROW.*

(1) *Jurisdiction, inspection and stop work orders.*

(a) All facilities and ROW work shall be subject to inspection by the City and the supervision of all Federal, State and local authorities having jurisdiction in such matters to ensure compliance with all applicable laws, ordinances, departmental rules and regulations and the ROW permit.

(b) The Director shall have full access to all portions of the ROW Work and may issue stop work orders and corrective orders to prevent unauthorized work or substandard work as established in Subsection (c)(7) hereof. Such orders:

(i) May be delivered personally or by certified mail to the address(es) listed on the application for the ROW permit or the person in charge of the construction site at the time of delivery;

(ii) Shall state that substandard work or work not authorized by the ROW permit is being carried out, summarize the substandard or unauthorized work and provide a period of not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety; and

(iii) May be enforced by equitable action in the Circuit Court of St. Louis County, Missouri, and in such case the person responsible for the substandard or unauthorized work shall be liable for all costs and expenses incurred by the City in enforcing such orders, including reasonable attorney's fees, in addition to any and all penalties established in this Article.

(2) *Underground facilities.*

(a) In conjunction with the City's long-standing policy favoring underground construction, no person may erect, construct or install new

poles or other facilities above the surface of the rights-of-way without the written permission of the City, unless the City's authority has been pre-empted by State or Federal law. Such permission may be granted through a ROW permit when other similar facilities exist above ground or when conditions are such that underground construction is impossible, impractical or economically unfeasible, as determined by the City, and when in the City's judgment the above ground construction has minimal aesthetic impact on the area where the construction is proposed.

(b) During installation of facilities and to the extent authorized by law, existing underground conduits shall be used whenever feasible and permitted by the owner thereof.

(c) In the case of new construction or property development, the developer or property owner shall give reasonable written notice, to other potential ROW users as directed by the City, of the particular date on which open trenching will be available for installation of facilities. Costs of trenching and easements required to bring facilities within the development shall be borne by the developer or property owner; except that if the facilities are not installed within five (5) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then once the trenches are thereafter closed, the cost of new trenching shall be borne by the person installing the facilities.

(3) *Above ground facilities.*

(a) The Director may designate certain locations or facilities in the ROW to be excluded from use by the applicant for its facilities, including, but not limited to:

(i) Ornamental or similar specially-designed street lights,

(ii) Designated historic areas,

(iii) Facilities, equipment, structures or locations that do not have electrical service adequate or appropriate for the proposed facilities or cannot safely bear the weight or wind loading thereof,

(iv) Facilities, equipment, structures or locations that in the reasonable judgment of the Director are incompatible with the proposed facilities or would be rendered unsafe or unstable by the installation, and

(v) Facilities, equipment, structures or locations that have been designated or planned for other use or are not otherwise available for use by the applicant due to engineering, technological, proprietary, legal or other limitations or restrictions.

(b) Above ground facilities shall be a neutral color and shall not be bright, reflective or metallic. Black, gray and tan shall be considered neutral

colors, as shall any color that blends with the surrounding dominant color and helps to camouflage the facilities. Facilities shall be located in such a manner as to reduce or eliminate their visibility. A sight proof landscape screen may be required for any authorized above ground facility taller than three (3) feet in height or covering in excess of four (4) square feet in size. Such screening shall be sufficient to reasonably conceal the facility. A landscape plan identifying the size and species of landscaping materials shall be approved by the Director prior to installation of any facility requiring landscape screening. The person having facilities within the ROW shall be responsible for the installation, repair or replacement of screening materials. Alternative screening or concealment may be approved by the Director to the extent it meets or exceeds the purposes of these requirements.

(c) Above ground facilities shall be constructed and maintained in such a manner so as not to emit any unnecessary or intrusive noise and shall comply with all other applicable regulations and standards established by the City or State or Federal law.

(d) If the application of this Subsection excludes locations for above ground facilities to the extent that the exclusion conflicts with the reasonable requirements of the applicant, the Director shall cooperate in good faith with the applicant to attempt to find suitable alternatives, but such alternatives may exceed the cost increase limitation established by Section 23-212(b)(2)(b) and the City shall not be required to incur any financial cost or to acquire new locations for the applicant.

(4) *Relocation of equipment and facilities.*

(a) 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 within 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 within the ROW as soon as practicable.

(b) At the City's direction, all facilities shall be moved underground and the cost shall be solely the obligation of the person having facilities within the ROW (or as otherwise allowed or required by law).

(c) At the City's direction, a person having facilities within the ROW shall protect, support, disconnect, relocate or remove facilities, at its own cost and expense, when necessary to accommodate the construction, improvement, expansion, relocation or maintenance of streets or other public works or to protect the ROW or the public health, safety or welfare.

(d) A person having facilities within the ROW shall, on the reasonable request of any person and after reasonable advance written notice, protect, support, disconnect, relocate or remove facilities to accommodate such person and the actual cost, reasonably incurred, of such actions shall be paid by the person requesting such action. The person having facilities within the ROW taking such action may require such payment in advance.

(e) Rather than relocate facilities as requested or directed, a ROW user may abandon the facilities if approved by the City as provided in Subsection (c)(6) of this Section.

(f) 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 within the rights-of-way shall be a vested interest.

(5) *Property repair and alterations.*

(a) During any ROW work, the person doing the work shall protect from damage any and all existing structures and property belonging to the City and any other person. Any and all rights-of-way, public property or private property disturbed or damaged during the work shall be repaired or replaced by the person doing the work or the person on whose behalf the work is being done and such person shall immediately notify the owner of the fact of any damaged property. Such repair or replacement shall be completed within a reasonable time specified by the Director and to the Director's satisfaction.

(b) Any alteration to the existing water mains, sewerage or drainage system or to any City, State or other public structures or facilities in the rights-of-way required on account of the construction, installation, repair or maintenance of facilities within the rights-of-way shall be made at the sole cost and expense of the owner of such facilities.

(6) *Removal, abandonment, transfer and relocation of facilities.*

(a) If a person having facilities within the ROW:

(i) Installs the facilities within the ROW without having complied with the requirements of this Article, or

(ii) Abandons the facilities, the City may require the removal of the facilities at the expense of the person having facilities within the ROW or require the transfer of the facilities as provided herein.

(b) If the City requires removal of the facilities, the person shall obtain a ROW permit and shall abide by all requirements of this Article. The liability, indemnity, insurance and bonding requirements required herein shall continue in full force and effect during and after the period of removal and restoration and until full compliance by the person with the

terms and conditions of the ROW permit and the requirements of this Article.

(c) If the person fails to remove the facilities after having been directed to do so, the City may, to the extent permitted by law, have the removal done at the person's expense. Alternatively, the City may permit the abandonment, without removal, of the facilities if the Director determines that abandonment is not likely to prevent or significantly impair the future use, repair, excavation, maintenance or construction of the ROW.

(d) If the person fails to remove the facilities after having been directed to do so, the City may, to the extent permitted by law, decide that the ownership of the facilities should be transferred to the City or to such person as directed by the City. In either case, the owner of the facilities shall submit a written instrument, satisfactory in form to the City, transferring to the City or to such person as directed by the City, ownership of the facilities. The City may sell, assign or transfer all or part of the facilities so transferred.

(e) The City shall not remove or seek to possess or transfer the facilities until thirty (30) days have passed following written notice by the Director to the person having facilities within the ROW of the City's intent to so act. The Director may choose not to act on good cause shown by the person having facilities within the ROW.

(7) *Standards for ROW work.*

(a) Except for emergency ROW work as provided in Section 23-212 (b)(1)(a), ROW work shall be performed only upon issuance and in accordance with the requirements of a ROW permit. At all times during the work, ROW permits shall be conspicuously displayed at the work site and shall be available for inspection by the Director.

(b) If at any time it appears that the duration or scope of the ROW work is or will become materially different from that allowed by the ROW permit, the ROW user shall inform the Director. The Director may issue a waiver, an extension or a revised ROW permit or require that the ROW user reapply for a ROW permit in accordance with all requirements of this Article.

(c) ROW users shall not open or encumber more of the rights-of-way than is reasonably necessary to complete the ROW work in the most expeditious manner or allow excavations to remain open longer than is necessary to complete the work.

(d) All ROW work that affects vehicular or pedestrian traffic shall be properly signed, barricaded and otherwise protected at the ROW user's expense. The ROW user shall be responsible for providing adequate

traffic control to the area surrounding the work as determined by the Director.

(e) The ROW user shall perform the ROW work at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood, as permitted by the Director. Unless otherwise provided by the Director in the permit, non-emergency ROW work on arterial and collector streets may not be accomplished during 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.

(f) The ROW user shall notify the City no less than three (3) working days in advance of any ROW work that would require any street closure or would reduce traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. Except in the event of emergency ROW work, no such closure shall take place without notice and prior authorization from the City.

(g) All ROW work shall be in accordance with all applicable Sections of the Occupational Safety and Health Act of 1970, the National Electrical Safety Code and other Federal, State or local laws and regulations that may apply, including, without limitation, local health, safety, construction and zoning ordinances and laws and accepted industry practices, all as hereafter may be amended or adopted. In the event of a conflict among ordinances and standards, the most stringent ordinance or standard shall apply (except insofar as that ordinance or standard, if followed, would result in facilities that could not meet requirements of Federal, State or local law).

(h) All facilities shall be installed and located to cause minimum interference with the rights and convenience of property owners, other ROW users and the City. Facilities shall not be placed where they will disrupt or interfere with other facilities or public improvements or obstruct or hinder in any manner the various utilities serving the residents and businesses in the City or public improvements.

(i) All facilities shall be of good and durable quality.

(j) All ROW work shall be conducted in accordance with good engineering practices, performed by experienced and properly trained personnel so as not to endanger any person or property or to unreasonably interfere in any manner with the rights-of-ways or legal rights of any property owner, including the City, or unnecessarily hinder or obstruct pedestrian or vehicular traffic.

(k) All safety practices required by law shall be used during ROW work, including commonly accepted methods and devices to prevent failures and accidents that are likely to cause damage, injury or nuisance to the public.

(l) Any contractor or subcontractor of a ROW user must be properly licensed under laws of the State and all applicable local ordinances and each contractor or subcontractor shall have the same obligations with respect to its work as a ROW user would have pursuant to this Article. A ROW user:

(i) Must ensure that contractors, subcontractors and all employees performing ROW work are trained and experienced,

(ii) Shall be responsible for ensuring that all work is performed consistent with the ROW permit and applicable law,

(iii) Shall be fully responsible for all acts or omissions of contractors or subcontractors,

(iv) Shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor, and

(v) Shall implement a quality control program to ensure that the work is properly performed.

(m) A ROW user shall not place or cause to be placed any sort of signs, advertisements or other extraneous markings on the facilities or in the ROW, whether relating to the ROW user or any other person, except such necessary minimal markings approved by the City as necessary to identify the facilities for service, repair, maintenance or emergency purposes or as may be otherwise required to be affixed by applicable law or regulation.

(n) Unless otherwise approved in writing by the City, a ROW user shall not remove, cut or damage any trees or their roots within the ROW.

(o) Street crossings will be bored at the direction of the Director.

(8) *Restoring and maintaining the rights-of-way.*

(a) To complete any ROW work, the ROW user shall restore the ROW and surrounding areas, including, but not limited to, any pavement, foundation, concrete slabs or curbs, screening, landscaping or vegetation, and shall comply with other reasonable conditions of the Director. Restoration of the ROW shall be completed within the dates specified in the ROW permit unless the Director issues a waiver, extension or a new or revised ROW permit.

(b) It shall be the duty of any person making an excavation in the ROW to backfill such excavations and restore the surface in accordance with the City's minimum prescribed standards for such surfaces or the following standards as determined by the Director.

(i) If the excavations are made in the improved portion of the ROW, twelve (12) inches of granular backfill will be placed over exposed facilities and controlled low strength material (CLSM) will fill the

hole within eight (8) inches of the finished surface for concrete pavements. There will be a plastic membrane placed between the rock base and the CLSM to prevent the material from bleeding into the rock base. The remaining eight (8) inches will be restored by placing a twenty-eight (28) day minimum strength, four thousand five hundred (4,500) psi concrete mix.

(ii) If the excavations are made in the improved portion of an asphalt or combination street, twelve (12) inches of granular backfill will be placed over exposed facilities and CLSM will fill the hole within nine (9) inches of the finished surface. There will be a plastic membrane placed between the rock base and the CLSM to prevent the material from bleeding into the rock base. The remaining nine (9) inches will be restored by placing a six (6) inch thick, twenty-eight (28) day minimum strength, four thousand five hundred (4,500) psi concrete mix under a three (3) inch asphalt concrete lift of type C mix to meet existing grades.

(iii) Construction of asphalt driveway entrances in residential ROW will be constructed of six (6) inches of compacted rock base and three (3) inches of type C asphalt concrete mix. Construction of asphalt driveway entrances in commercial ROW will be constructed of four (4) inches of compacted rock base, seven and one-half (7.5) inches of type X and three (3) inches of type C asphalt concrete mix. Concrete driveway approaches will consist of a four (4) inch compacted rock base and be a minimum of six (6) inches thick in residential ROW and eight (8) inches thick in commercial ROW.

(c) If a ROW user fails to restore the ROW within the date specified either by the ROW permit or any extension thereof as granted by the Director, the City may perform its own restoration. The City may also opt to perform its own restoration regardless of any failure by the ROW user, in which case the ROW permit or any amendment or revision thereto, shall note such option. In either event, if the City performs the restoration, the ROW user shall be responsible for reimbursing the City's reasonable actual restoration costs within thirty (30) days of invoice.

(d) Every ROW user to whom a ROW permit has been granted shall guarantee for a period of four (4) years the restoration of the ROW in the area where the ROW user conducted excavation. During this period, the ROW user shall, upon notification from the Director, correct all restoration work to the extent necessary as required by the Director. Said work shall be completed within a reasonable time, not to exceed thirty (30) calendar days from receipt of the Director's notice unless otherwise permitted by the Director. If a ROW user fails to restore the ROW within the time specified, the City may perform the work and the ROW user shall be responsible for reimbursing the City's reasonable actual

restoration costs within thirty (30) days of invoice. The Director may extend the cure period on good cause shown.

(e) A ROW user shall not be relieved of the obligation to complete the necessary right-of-way restoration and maintenance because of the existence of any performance bond required by this Article.

(9) Any person performing ROW work shall provide written notice to all property owners within one hundred eighty-five (185) feet of the site at least forty-eight (48) hours prior to any installation, replacement or expansion of its facilities. Notice shall include a reasonably detailed description of work to be done, the location of work and the time and duration of the work.

(d) *Bonds — Insurance — Surety — Indemnification — Penalties.*

(1) *Performance and maintenance bonds.*

(a) Prior to any ROW work, a ROW user shall establish in the City's favor a performance and maintenance bond in an amount to be determined by the Director to ensure the restoration of the rights-of-way. The bond shall continue in full force and effect for a period of twenty-four (24) months following completion of the work. The Director shall have the authority to extend the maintenance bond period for up to an additional twenty-four (24) months. The Director may waive this requirement when the work involves no or only minor disruption or damage to the rights-of-way. The Director shall waive this requirement when the ROW user has twenty-five million dollars ($25,000,000.00) in net assets and does not have a history of non-compliance with State and local regulations.

(b) If a ROW user fails to complete the ROW work in a safe, timely and competent manner or if the completed restorative work fails without remediation within the time period for the bond (as determined by the Director), then after notice and a reasonable opportunity to cure there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the ROW user and the cost of completing work within or restoring the rights-of-way, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond. The City may also recover against the bond any amount recoverable against a security fund or letter of credit where such amount exceeds that available under a security fund or letter of credit.

(c) Upon completion of ROW work to the satisfaction of the Director and upon lapse of the bond period, including any extension by the Director, the City shall release the bond.

(d) The bond shall be issued by a surety with an "A" or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition, shall

be subject to the approval of the City's attorney and shall contain the following endorsement:

(d) "This bond may not be cancelled or allowed to lapse until sixty (60) days after receipt by the City, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

(e) In lieu of the bond required herein, the ROW user may establish in the City's favor such other security as the Director may determine to be commensurate with the noted bonding requirements, including but not limited to an annual bond to be maintained in the minimum amount of twenty-five thousand dollars ($25,000.00).

(2) *Insurance.*

(a) All ROW users shall maintain, for the duration of any ROW work and, when applicable, for as long as the ROW user has facilities within the rights-of-way, at least the following liability insurance coverage: Workers' Compensation and employer liability insurance to meet all requirements of Missouri law and commercial general liability insurance with respect to the construction, operation and maintenance of the facilities and the conduct of the ROW user's business in the City, in the minimum amounts of:

(i) Two million dollars ($2,000,000.00) for property damage resulting from any one (1) accident;

(ii) Five millions dollars ($5,000,000.00) for personal bodily injury or death resulting from any one (1) accident; and

(iii) Two millions dollars ($2,000,000.00) for all other types of liability. These insurance requirements shall not be construed to limit the liability of any person or to impose any liability on the City or to waive any sovereign immunity.

(b) All insurance policies shall be with sureties qualified to do business in the State of Missouri, with an "A" or better rating of insurance by Best's Key Rating Guide, Property/Casualty Edition and in a form approved by the City.

(c) All insurance policies shall be available for review by the City and a ROW user having facilities within the rights-of-way shall keep on file with the City current certificates of insurance.

(d) All general liability insurance policies shall name the City, its officers, boards, board members, commissions, commissioners, agents and employees as additional insureds and shall further provide that any cancellation or reduction in coverage shall not be effective unless thirty (30) days' prior written notice thereof has been given to the Director. A ROW user shall not cancel any required insurance policy without

submission of proof that it has obtained alternative insurance that complies with this Article.

(e) The Director may exempt in writing from these insurance requirements any self-insured ROW user, provided that the ROW user demonstrates to the Director's satisfaction that the ROW user's self-insurance plan is commensurate with said requirements and that the ROW user has sufficient resources to meet all potential risks, liabilities and obligations contemplated by the requirements of this Article. The Director may require a security fund or letter of credit as a condition to a self-insured's exemption. The Director shall waive this requirement when the ROW user has twenty-five million dollars ($25,000,000.00) in net assets and does not have a history of non-compliance with applicable regulatory law.

(3) *Indemnification.*

(a) Any ROW user granted a ROW permit and any person having facilities within the rights-of-way, as partial consideration for the privilege granted, shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, board members, commissions, commissioners, agents and employees, against any and all claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of:

(i) Any ROW work, including, but not limited to, the construction, maintenance, repair or replacement of the facilities,

(ii) The operation of its facilities,

(iii) Failure to secure consents from landowners, or

(iv) Any actions taken or omissions made by the person pursuant to the authority of this Article.

(b) The foregoing indemnity provisions include, but are not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding prior to the person assuming such defense. The City shall notify a person of claims and suits within seven (7) business days of its actual knowledge of the existence of such claim, suit or proceeding. Once a person assumes such defense, the City may at its option continue to participate in the defense at its own expense.

(c) Notwithstanding anything to the contrary contained in this Article, the City shall not be so indemnified or reimbursed in relation to any amounts attributable to:

(i) The City's own negligence, willful misconduct, intentional or criminal acts, or

(ii) The City acting in a proprietary capacity to deliver service(s) within the City.

(d) Recovery by the City of any amounts under insurance, a performance bond or otherwise does not limit a person's duty to indemnify the City in any way; nor shall such recovery relieve a person of amounts owed to the City or in any respect prevent the City from exercising any other right or remedy it may have.

(4) *Penalties.* Any person violating any provision of this Article shall, upon conviction by the City's Municipal Court, be punished by a fine not to exceed one thousand dollars ($1,000.00) or by imprisonment not to exceed ninety (90) days or by both such fine and imprisonment. Each day the violation continues may be charged as a separate offense.

(e) *Dispute Resolutions, Appeals And Arbitration.*

(1) The Director shall make a final determination as to any matter concerning the grant, denial or revocation of a ROW permit as provided in this Article. On the request of an applicant or a ROW user and within a reasonable period of time, the Director also shall make a final determination as to any other issue relating to the use of the ROW, the imposition of any fee or the application of any provision of this Article, provided however, that this review shall not apply to matters being prosecuted in the Municipal Court. Any final determination of the Director shall be subject to review as provided herein.

(2) Any person aggrieved by a final determination of the Director may appeal in writing to the City Administrator within five (5) business days thereof. The appeal shall assert specific grounds for review and the City Administrator shall render a decision on the appeal within fifteen (15) business days of receipt affirming, reversing or modifying the determination of the Director. The City Administrator may extend this time period for the purpose of any investigation or hearing deemed necessary. A decision affirming the Director's determination shall be in writing and supported by findings establishing the reasonableness of the decision.

(3) Any person aggrieved by the final determination of the City Administrator may file a petition for review pursuant to Chapter 536 of the Revised Statutes of Missouri, as amended, in the Circuit Court of the County of St. Louis. Such petition shall be filed within thirty (30) days after the City Administrator's final determination.

(4) *Arbitration and mediation.*

(a) On agreement of the parties and in addition to any other remedies, any final decision of the City Administrator may be submitted to mediation or binding arbitration.

(b) In the event of mediation, the City Administrator and the applicant or ROW user shall agree to a mediator. The costs and fees of the mediator

shall be borne equally by the parties and each party shall pay its own costs, disbursements and attorney fees.

(c) In the event of arbitration, the City Administrator and the applicant or ROW user shall agree to a single arbitrator. The costs and fees of the arbitrator shall be borne equally by the parties.

If the parties cannot agree on an arbitrator, the matter shall be resolved by a three (3) person arbitration panel consisting of one (1) arbitrator selected by the City Administrator, one (1) arbitrator selected by the applicant or ROW user and one (1) person selected by the other two (2) arbitrators, in which case each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third (3rd) arbitrator and of the arbitration. Each party shall also pay its own costs, disbursements and attorney fees.

(f) *Miscellaneous.*

(1) After the completion of ROW work the ROW user shall provide to the City as-built drawings, maps or other comparable records as determined by the Director, drawn to scale and certified to the City as reasonably depicting the location of all facilities constructed pursuant to the ROW permit. Such records may be provided to the Director in the form maintained by the ROW user, but when available to the ROW user, shall be submitted in automated formats that are compatible with City systems, as determined by the Director, or in hard copy otherwise.

(2) Upon failure of a ROW user to commence, pursue or complete any ROW work required by law or by the provisions of this Article to be done in any street, within the time prescribed and to the reasonable satisfaction of the City, the City may, at its option, after thirty (30) days' notice, cause such work to be done and the ROW user shall pay to the City the cost thereof in the itemized amounts reported by the City to the ROW user within thirty (30) days after receipt of such itemized report.

(3) Upon ten (10) days' written notice and with the supervision of the City or as otherwise provided by law, a ROW user shall have the authority to trim trees that overhang rights-of-way of the City so as to prevent the branches of such trees from coming in contact with its facilities, at its own expense subject to the supervision and direction of the City. Nothing in this paragraph shall authorize the trimming of trees on private property without permission of the property owner. All cut materials shall be properly disposed.

(4) During ROW work by a ROW user, the City shall have the right to install and to thereafter maintain at its own cost in any excavation to or other applicable disturbance of the ROW any parallel facilities of its own that do not unreasonably interfere with the operations of other facilities.

(5) Nothing in this Article shall be in preference or hindrance to the right of the City and any board, authority, commission or public service corporation of the

City to use or occupy the rights-of-way or to perform or carry on any public works or public improvements of any description.

Section 23-213. Zoning and Police Power Regulations. [Ord. No. 2028 §4, 1-15-2008]

(a) *Definitions.* The following terms shall have the following meanings unless otherwise defined by context:

DIRECTOR — The City's Public Works Director or such other person designated to administer and enforce this Article.

FACILITIES — A network or system or any part thereof, used for providing or delivering a service and consisting of one (1) or more lines, pipes, irrigation systems, wires, cables, fibers, conduit facilities, cabinets, poles, vaults, pedestals, boxes, appliances, antennas, transmitters, radios, towers, gates, meters, appurtenances or other equipment.

FACILITIES PERMIT — A permit granted by the City for placement of facilities on private property.

PERSON — An individual, partnership, limited liability corporation or partnership, association, joint stock company, trust, organization, corporation or other entity or any lawful successor thereto or transferee thereof.

SERVICE — Providing or delivering an economic good or an article of commerce, including, but not limited to gas, telephone, cable television, Internet, open video systems, video services, alarm systems, steam, electricity, water, telegraph, data transmission, petroleum pipelines, sanitary or storm water sewerage or any similar or related service, to one (1) or more persons located within or outside of the City using facilities located within the City.

(b) *Facilities Permits.*

(1) Any person desiring to place facilities on private property must first apply for and obtain a facilities permit, in addition to any other building permit, license, easement, franchise or authorization required by law. The Director may design and make available standard forms for such applications, requiring such information as allowed by law and as the Director determines in his or her discretion to be necessary and consistent with the provisions of this Article and to accomplish the purposes of this Article. Each application shall at a minimum contain the following information, unless otherwise waived by the Director:

(a) The name of the person on whose behalf the facilities are to be installed and the name, address and telephone number of a representative whom the City may notify or contact at any time (i.e., twenty-four (24) hours per day seven (7) days per week) concerning the facilities;

(b) A description of the proposed work, including a site plan and such plans or technical drawings or depictions showing the nature, dimensions and

description of the facilities, their location and their proximity to other facilities that may be affected by their installation.

(2) Each such application shall be accompanied by an application fee approved by the City to cover the cost of processing the application.

(3) *Application review and determination.*

(a) The Director shall promptly review each application and shall grant or deny the application within thirty-one (31) days. Unless the application is denied pursuant to Subparagraph (d) hereof, the Director shall issue a facilities permit upon determining that the applicant:

(i) Has submitted all necessary information,

(ii) Has paid the appropriate fees, and

(iii) Is in full compliance with this Article and all other City ordinances. The Director may establish procedures for bulk processing of applications and periodic payment of fees to avoid excessive processing and accounting costs.

(b) It is the intention of the City that proposed facilities will not impair public safety, harm property values or significant sight lines or degrade the aesthetics of the adjoining properties or neighborhood and that the placement and appearance of facilities on private property should be minimized and limited in scope to the extent allowed by law to achieve the purposes of this Section. To accomplish such purposes, the Director may impose conditions on facilities permits, including alternative landscaping, designs or locations, provided that such conditions are reasonable and necessary, shall not result in a decline of service quality and are competitively neutral and non-discriminatory.

(c) An applicant receiving a facilities permit shall promptly notify the Director of any material changes in the information submitted in the application or included in the permit. The Director may issue a revised facilities permit or require that the applicant reapply for a facilities permit.

(d) The Director may deny an application, if denial is deemed to be in the public interest, for the following reasons:

(i) Delinquent fees, costs or expenses owed by the applicant;

(ii) Failure to provide required information;

(iii) The applicant being in violation of the provisions of this Article or other City ordinances;

(iv) For reasons of environmental, historic or cultural sensitivity, as defined by applicable Federal, State or local law;

(v) For the applicant's refusal to comply with reasonable conditions required by the Director; and

(vi) For any other reason to protect the public health, safety and welfare, provided that such denial does not fall within the exclusive authority of the Missouri Public Service Commission and is imposed on a competitively neutral and non-discriminatory basis.

(4) *Permit revocation and ordinance violations.*

(a) The Director may revoke a facilities permit without fee refund after notice and an opportunity to cure, but only in the event of a substantial breach of the terms and conditions of the permit or this Article. Prior to revocation, the Director shall provide written notice to the responsible person identifying any substantial breach and allowing a reasonable period of time not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety. The cure period shall be extended by the Director on good cause shown. A substantial breach includes, but is not limited to, the following:

(i) A material violation of the facilities permit or this Article;

(ii) An evasion or attempt to evade any material provision of the permit or this Article or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its residents;

(iii) A material misrepresentation of fact in the permit application;

(iv) A failure to complete facilities installation by the date specified in the permit, unless an extension is obtained or unless the failure to complete the work is due to reasons beyond the applicant's control; and

(v) A failure to correct, upon reasonable notice and opportunity to cure as specified by the Director, work that does not conform to applicable national safety ordinances, industry construction standards or the City's pertinent and applicable ordinances, including but not limited to this Article, provided that City standards are no more stringent than those of a national safety ordinance.

(b) Any breach of the terms and conditions of a facilities permit shall also be deemed a violation of this Article and in lieu of revocation, the Director may initiate prosecution of the applicant or the facilities owner for such violation.

(5) *Appeals and alternative dispute resolution.*

(a) Any person aggrieved by a final determination of the Director may appeal in writing to the City Administrator within five (5) business days thereof. The appeal shall assert specific grounds for review and the City Administrator shall render a decision on the appeal within fifteen (15) business days of its receipt affirming, reversing or modifying the determination of the Director. The City Administrator may extend this time period for the purpose of any investigation or hearing deemed necessary. A decision affirming the Director's determination shall be in writing and supported by findings establishing the reasonableness of the decision. Any person aggrieved by the final determination of the City Administrator may file a petition for review pursuant to Chapter 536 of the Revised Statutes of Missouri, as amended, in the Circuit Court of the County of St. Louis. Such petition shall be filed within thirty (30) days after the City Administrator's final determination.

(b) On agreement of the parties and in addition to any other remedies, any final decision of the City Administrator may be submitted to mediation or binding arbitration.

(i) In the event of mediation, the City Administrator and the applicant shall agree to a mediator. The costs and fees of the mediator shall be borne equally by the parties and each party shall pay its own costs, disbursements and attorney fees.

(ii) In the event of arbitration, the City Administrator and the applicant shall agree to a single arbitrator. The costs and fees of the arbitrator shall be borne equally by the parties. If the parties cannot agree on an arbitrator, the matter shall be resolved by a three (3) person arbitration panel consisting of one (1) arbitrator selected by the City Administrator, one (1) arbitrator selected by the applicant or facilities owner and one (1) person selected by the other two (2) arbitrators, in which case each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third (3rd) arbitrator and of the arbitration. Each party shall also pay its own costs, disbursements and attorney fees.

(c) *Facilities Regulations.*

(1) The following general regulations apply to the placement and appearance of facilities:

(a) Facilities shall be placed underground, except when other similar facilities exist above ground or when conditions are such that underground construction is impossible, impractical or economically unfeasible, as determined by the City, and when in the City's judgment the above ground construction has minimal aesthetic impact on the area where the construction is proposed. Facilities shall not be located so as

to interfere or be likely to interfere with any public facilities or use of public property.

(b) Facilities shall be located in such a manner as to reduce or eliminate their visibility. Non-residential zoning districts are preferred to residential zoning districts. Preferred locations in order of priority in both type districts are (a) thoroughfare landscape easements,

(c) Rear yards, and

(d) Street side yards on a corner lot behind the front yard setback. Placements within side yards not bordered by a street or within front yards are discouraged.

(e) Facilities shall be a neutral color and shall not be bright, reflective or metallic. Black, gray and tan shall be considered neutral colors, as shall any color that blends with the surrounding dominant color and helps to camouflage the facilities. Sight proof screening, landscape or otherwise, may be required for any facility taller than three (3) feet in height or covering in excess of four (4) square feet in size. Such screening shall be sufficient to reasonably conceal the facility. A landscape plan identifying the size and species of landscaping materials shall be approved by the Director prior to installation of any facility requiring landscape screening. The person responsible for the facilities shall be responsible for the installation, repair or replacement of screening materials. Alternative concealment may be approved by the Director to the extent it meets or exceeds the purposes of these requirements.

(f) Facilities shall be constructed and maintained in a safe manner so as to not emit any unnecessary or intrusive noise and in accordance with all applicable provisions of the Occupational Safety and Health Act of 1970, the National Electrical Safety Code and all other applicable Federal, State or local laws and regulations.

(g) No person shall place or cause to be placed any sort of signs, advertisements or other extraneous markings on the facilities, except such necessary minimal markings approved by the City as necessary to identify the facilities for service, repair, maintenance or emergency purposes or as may be otherwise required to be affixed by applicable law or regulation.

(h) If the application of this Subsection excludes locations for facilities to the extent that the exclusion conflicts with the reasonable requirements of the applicant, the Director shall cooperate in good faith with the applicant to attempt to find suitable alternatives, but the City shall not be required to incur any financial cost or to acquire new locations for the applicant.

(2) Any person installing, repairing, maintaining, removing or operating facilities, and the person on whose behalf the work is being done, shall protect from

damage any and all existing structures and property belonging to the City and any other person. Any and all rights-of-way, public property or private property disturbed or damaged during the work shall be repaired or replaced and the responsible person shall immediately notify the owner of the fact of the damaged property. Such repair or replacement shall be completed within a reasonable time specified by the Director and to the Director's satisfaction.

(3) The applicant shall provide written notice to all property owners within one hundred eighty-five (185) feet of the site at least forty-eight (48) hours prior to any installation, replacement or expansion of its facilities. Notice shall include a reasonably detailed description of work to be done, the location of work and the time and duration of the work.

(4) At the City's direction, a person owning or controlling facilities shall protect, support, disconnect, relocate or remove facilities, at its own cost and expense, when necessary to accommodate the construction, improvement, expansion, relocation or maintenance of streets or other public works or to protect the ROW or the public health, safety or welfare.

(5) If a person installs facilities without having complied with the requirements of this Article or abandons the facilities, said person shall remove the facilities and if the person fails to remove the facilities within a reasonable period of time, the City may, to the extent permitted by law, have the removal done at the person's expense.

(6) Facilities shall be subject to all other applicable regulations and standards as established as part of the City Code, including but not limited to building codes, zoning requirements and rights-of-way management regulations, in addition to the regulations provided herein.

Section 23-214. Penalty. [Ord. No. 2028 §5, 1-15-2008]

Any person found guilty of violating any provision of this Article shall be punished by a fine not to exceed one thousand dollars ($1,000.00) or by imprisonment not to exceed ninety (90) days or by both such fine and imprisonment and each day the violation continues shall constitute a separate offense.