

## **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 curbside 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:

| <b>District Classification</b>                 | <b>Code Designation</b> |
|--|-------------------------|
| 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:

| <b>Use</b>   | <b>Minimum Area</b> |
|--------------|---------------------|
| 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 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, 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:

| <b>Use</b>   | <b>Minimum Area</b>  |
|--|--|
| Advertising signs  | 3 acres  |
| Administrative offices and educational facilities<br>— 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<br>community center      | 20 acres<br>with an average of at least 4000 sq.<br>ft. per unit |
| Local public utility facilities and<br>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 than 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 sections 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 <sup>1</sup>**

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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<sup>1</sup>. 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<sup>2</sup>]

- (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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<sup>2</sup> 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, 9-17-2002; Ord. 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<sup>3</sup>]

- (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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<sup>3</sup>. 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 curbside 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:

| <b>Use or Use Category</b>   | <b>Off-Street Parking Space(s) Required</b>                |
|--|--|
| 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) <sup>4</sup>

**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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<sup>4</sup>. 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 and 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      Review by Board of Aldermen  
Public Hearing

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 Review by Board of Aldermen  
Hearing

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 earth 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.