

Chapter 5

BUILDINGS

ARTICLE I General Regulations

Division 1 Administration Of Article Generally

Section 5-1. Scope of Article. [Ord. No. 464, §2]

Regulations provided for in this article shall be known as the building regulations of the city. The intent of the regulations is to insure public safety, health and welfare of inhabitants of the city insofar as they are affected by building construction, through structural strength, adequate egress facilities, sanitary equipment, light and ventilation and fire safety and in general to secure safety to life and property from all hazards incident to the design, erection, repair, removal, demolition or use and occupancy of buildings; structures or premises.

Section 5-1.1. Deadline for Commencement of Construction Imposed. [Ord. No. 1394 §1, 2-16-1999]

- (a) The Planning and Zoning Commission and/or Board of Aldermen in conjunction with authority being granted for any commercial or industrial development, shall impose a deadline by which construction of the principal structure must commence. Such deadline shall be no longer than one (1) year following final Planning and Zoning Commission and/or Board of Aldermen approval, but may not be less than six (6) months. On or before the construction commencement deadline, the Planning and Zoning Commission and/or Board of Aldermen may consider deadline extensions. No single deadline extension may exceed a period of six (6) months.
- (b) In the event that a construction commencement deadline is reached and not extended, any authority granted by the City for the application associated with the principal structure shall be rescinded without any action being required by the City.

Section 5-2. Department of Building Inspection. [Ord. No. 464, §§2,6]

- (a) Created. The department of building inspection of the city is hereby created.
- (b) Building Commissioner generally.
 - (1) *Executive.* The executive official in charge of the department of building inspection shall be known as the building commissioner.

- (2) *Appointment — removal.* The building commissioner shall be appointed by the mayor and the board of aldermen and he shall not be removed from office except for cause and after full opportunity has been granted him to be heard on specific and relevant charges by and before the mayor and the board of aldermen.
 - (3) *Qualifications.* To be eligible for appointment, the building commissioner shall have had at least three years of building or related experience.
 - (4) *Liability.* The building commissioner shall not be liable personally and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his official duties.
 - (5) *Code of ethics.* The building commissioner shall conduct his official duties in conformance with the Building Official and Code Administrators Code of Ethics at all times.
 - (6) *Official badge.* He may adopt a badge of office for himself and assistants which shall be displayed for the purpose of identification.
 - (7) *Jurisdictional cooperation.* The assistance and cooperation of police, fire and health departments and all other officials shall be available to him as required in the performance of his duties.
- (c) *Organization.* The building commissioner shall appoint such number of inspectors and other employees as shall be necessary for the administration of the building regulations as authorized by the appointing authority.
 - (d) *Official Records.* An official record shall be kept of all business and activities of the department specified in the provisions of this article and all such records shall be open to public inspection at all appropriate times.

Section 5-3. Powers and Duties of Building Commissioner Generally. [Ord. No. 464 §§3, 4, 6]

- (a) The building commissioner is hereby charged with the responsibility of enforcing the city zoning ordinances as amended. The building commissioner is hereby authorized to immediately order correction or ceasing of an unlawful use which violates any of the provisions of the zoning ordinances, as amended, of the city.
- (b) The building commissioner shall enforce all of the provisions of the building regulations and shall act on any question relative to the mode or manner of construction and materials to be used in the erection, addition to, alteration, repair, removal, demolition, installation of service equipment and the location, use, occupancy and maintenance of all buildings and structures.
- (c) The building commissioner shall enforce all codes related to buildings and structures as may be adopted including, but not limited to the Building Code, Plumbing Code, Electrical Code, One and Two Family Dwelling Code, Mechanical

Code and Housing Code. The building commissioner is hereby empowered to enforce all such codes when legally adopted.

- (d) The building commissioner is hereby empowered to require all necessary and reasonable structural and fire safety requirements as recommended by the city engineer.
- (e) The building commissioner shall:
 - (1) Receive applications for building permits, occupancy permits and mechanical permits.
 - (2) Review plans submitted by applicants for compliance with all zoning laws and ordinances, Building Codes, the Plumbing Code, Electrical Code and other Codes.
 - (3) Issue building permits, occupancy permits and mechanical permits.
 - (4) Issue notices and orders to remove illegal or unsafe conditions.
 - (5) Make on site inspections as he deems necessary.
 - (6) Conduct research and investigations of new developments of methods and materials in the building industry and accept such new developments when determined to be acceptable.
- (f) The Building Commissioner may order that a structure be removed when construction has been abandoned for two (2) years or more, for which a lawful building permit has been issued, when deemed to be a nuisance and hazard to the health, safety and general welfare of the residents of the City, in accordance with the provisions of Article II of this Chapter.
- (g) The Building Commissioner shall serve as the plumbing supervisor and road inspection supervisor and as such shall direct the functions of the respective departments. The Building Commissioner while serving as the plumbing supervisor and road inspection supervisor is hereby empowered to enforce the regulations affecting that respective construction.
- (h) The Building Commissioner is hereby empowered to promulgate rules and regulations deemed necessary in the interest of public safety, health and general welfare, to interpret and implement the provisions of the building regulations.
- (i) In the discharge of his duties, the Building Official or his authorized representative shall have the authority to enter at any reasonable hour any building, structure or premises in the jurisdiction to enforce the provisions of the regulations and Codes.

Section 5-3.1. Inspections. [Ord. No. 464 §17; Ord. No. 709 §§1, 2]

- (a) Before issuing a permit, the Building Commissioner may examine all buildings, structures and sites for which a permit application has been filed.

- (b) The Building Commissioner shall conduct inspections from time to time as he deems necessary.
- (c) Work shall not proceed beyond the point indicated by the Building Commissioner.
- (d) No reinforcing steel or structural framework or any part of any building or structure shall be covered or concealed in any manner whatever without first obtaining the approval of the Building Commissioner.
- (e) In no event shall construction continue beyond the stage of footings and/or foundations being poured until such time as a site inspection survey, performed by a licensed surveyor, is filed with the Building Commissioner. Such survey shall include the position of footings and/or foundation.

Section 5-3.1.1. Inspection of Multi-Family Structures. [Ord. No. 1329 §1, 12-2-1997]

Prior to a change of tenancy of any multi-family structure containing two (2) or more units, in addition to any inspections performed in conformance with the City's Exterior Appearance Code as set forth in Chapter 5, Article III, an interior occupancy inspection shall be performed. All provisions relating to administration, definitions, general requirements, specific requirements, standards, enforcement, penalties and appeals are set forth in a document which is known as the City of Eureka Multi-Family Occupancy Inspection Code.

Section 5-3.1.2. Inspection of Commercial and Industrial Structures. [Ord. No. 1340 §1, 2-17-1998]

Prior to a change of tenancy or ownership of any commercial or industrial structure, in addition to any inspections performed in conformance with the City's Exterior Appearance Code as set forth in Chapter 5, Article III, an interior occupancy inspection shall be performed. All provisions relating to administration, definitions, general requirements, specific requirements, standards, enforcement, penalties and appeals are set forth in a document which is known as the City of Eureka Commercial and Industrial Structure Occupancy Inspection Code.

Section 5-3.2. Variations and Modifications. [Ord. No. 464 §5]

- (a) When there are practical difficulties involved in carrying out structural or mechanical provisions of the building regulations or of any approved rule, the Building Official may vary or modify such provisions upon application of the owner or his representative; provided, that the spirit and intent of the law shall be observed and public welfare and safety be assured.
- (b) The application for modification and the final decision of the Building Official shall be in writing and shall be officially recorded with the application for the permit in the permanent records of the department of building inspection.

Section 5-3.3. Appeals from Decisions. [Ord. No. 464 §21]

Anyone aggrieved by any order, notice, rule or regulation issued or promulgated by the Building Commissioner may appeal same directly to the Board of Aldermen; provided, that such appeal is made in writing.

The Building Commissioner shall immediately forward such appeal and all information regarding such appeal to the Board of Aldermen. The decision of the Board of Aldermen shall be final and may overrule the order, notice, rule or regulation of the Building Commissioner; except, that such decision of the Board of Aldermen shall be subject to court review.

Division 2
Adoption of Codes¹

Section 5-3.4. Building Codes Adopted. [Ord. No. 912 §2; Ord. No. 1260 §§1 — 2, 10-15-1996; Ord. No. 1312 §§1 — 2, 10-7-1997; Ord. No. 1449 §1, 4-18-2000; Ord. No. 1491 §1, 10-17-2001; Ord. No. 1515 §§1 — 2, 3-6-2001; Ord. No. 1604 §1, 4-2-2002; Ord. No. 1734 §1, 11-18-2003; Ord. No. 1839 §1, 7-19-2005; Ord. No. 1866 §1, 10-18-2005; Ord. No. 1944 §1, 9-19-2006; Ord. No. 2141 §1, 10-19-2010]

- (a) The St. Louis County Existing Building Code as approved on July 21, 2010 by St. Louis County Ordinance Number 24,444, the St. Louis County Mechanical Code as approved on July 21, 2010 by St. Louis County Ordinance Number 24,444, the St. Louis County Plumbing Code as approved on July 21, 2010 by St. Louis County Ordinance Number 24,444, the St. Louis County Electrical Code as approved on July 21, 2010 by St. Louis County Ordinance Number 24, 444 and the St. Louis County Explosives Code as approved on November 6, 1997 by St. Louis County Ordinance Number 18,693 are hereby adopted as the Existing Building, Mechanical, Plumbing, Electrical and Explosives Codes of the City of Eureka, Missouri, under certain conditions as fully set forth in a contract agreement between the City of Eureka and St. Louis County. The Mayor or City Administrator is hereby authorized to enter into a contract agreement with St. Louis County for the provision of intergovernmental services pursuant to the contract agreement on file in the City offices and incorporated herein as if fully set forth.
- (b) The International Building Code, 2009 Edition, with amendments on file with the Building Commissioner's office, is hereby adopted as the Commercial and Industrial Building Code of the City of Eureka.

Section 5-3.5. One- and Two-Family Dwelling Code. [Ord. No. 1102² §1 — 2, 5-17-1994; Ord. No. 1604 §1, 4-2-2002; Ord. No. 1866 §2, 10-18-2005; Ord. No. 2141 §1, 10-19-2010]

¹. Editor's Note — Ord. no. 1260 §§1 — 2, adopted October 15, 1996, enacted new building code provisions as set out in §5-3.4. Sections 5-3.6, 5-3.7.1 and 5-3.7.1.1 were hereby superseded, these sections formerly derived from ord. no. 896 §1, ord. no. 897 §1, ord. no. 899 §2, ord. no. 1094 §§1 — 2, 4-5-1994, and ord. no. 1136 §§1 — 2, 11-1-1994. At the editor's discretion, we have left the abovementioned sections "reserved" for future use by the city. Editor's Note — The code enforcement contract with St. Louis County as last amended by ord. no. 2033 adopted March 5, 2008, is on file in the city offices.

². Editor's Note — Ord. No. 1102 §1, repealed previous §5-3.5 setting out the new provisions above. Former §5-3.5 derived from ord. no. 911 §2.

The International Residential Code, 2009 Edition, with amendments on file with the Building Commissioner's office, is hereby adopted herein by reference as if fully set forth, and shall regulate the fabrication, erection, construction, enlargement, alteration, repair, location and use of one- and two-family dwellings, their appurtenances and accessory structures in the City.

Section 5-3.6. Structures — Prohibited Materials. [Ord. No. 1884 §1, 1-3-2006]

No materials may be utilized in the construction of structures within the City that are pervious to gaseous material in such a manner so as to require any continuous or periodic mechanized or pressurized means of introducing any gaseous material into such structure to maintain or restore its designed shape, height, width or function. This Section is not intended to prohibit cold air inflatable promotional devices as may be authorized in Chapter 19A.

Section 5-3.7. Professional Engineer Prepared Plans and Plats Required. [Ord. No. 1887 §1, 1-3-2006; Ord. No. 1899 §1, 3-21-2006³]

Plans and plats submitted to the City for legislative consideration as well as those depicting any design elements which may require structural or civil review must be prepared and sealed by a professional engineer. An exception to this requirement for site plan submittals may be considered and approved by the Building Commissioner or City Administrator, if a determination is made that such site plan is prepared to proper scale, accurately and adequately depicts all required elements and is otherwise prepared in a manner that allows for proper review.

Section 5-3.7.1. (Reserved) ⁴

Section 5-3.7.1.1. (Reserved) ⁵

Section 5-3.7.2. Seismic Design — Earthquake Preparedness. [Ord. No. 981 §§1 — 3, 12-18-1990]

- (a) Any new construction or major structural renovation begun after January 1, 1991, all buildings for which leases are executed by political subdivisions of the State after January 1, 1994, and all buildings for which leases are executed by the State or any institution of higher education after January 1, 1994, shall comply with the "Standards for Seismic Design and Construction" of the Building Officials and Code Administrator's Code or of the Uniform Building Code.
- (b) This Section shall not apply to any building owned by the State, any institution of higher education, any political subdivision upon which construction was begun or

³. Editor's Note — Ord. No. 1604 §2, adopted April 2, 2002, repealed sections 5-3.6 — 5.3.7 in their entirety. Former sections 5-3.6 — 5-3.7 derived from ord. no. 464 §10; Ord. No. 676 §4; ord. no. 1382 §1, 11-3-1998. Subsequently, ord. no. 1884, 1887 and 1899 set out the new provisions above.

⁴. Editor's Note — See editor's note to this article.

⁵. Editor's note — See editor's note to this article.

finished before December 18, 1990, any private structure with less than ten thousand (10,000) square feet in total area, or any single-family or duplex residence.

- (c) As used in this Section, the term "*major structural renovation*" means any reconstruction, rehabilitation, addition or other improvement of an existing structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the major structural renovation.

Division 3
Permits Generally

Section 5-3.8. Generally. [Ord. No. 464, §§11,12; Ord. No. 676, §5.; Ord. No. 1259 §1, 10-15-1996]

- (a) It shall be unlawful to construct, enlarge, alter or demolish a structure or change the nature or type of occupancy of a building or structure requiring greater strength, exitway or sanitary provisions or to change to a prohibited use or to install or alter any equipment for which provision is made or the installation of which is regulated by code, ordinance or regulation, without first filing an application with the building official in writing and obtaining the required permit therefor; except, that ordinary repairs, as defined in section 104.0 of the BOCA National Building Code and Section R-110 of the CABO 1 and 2 Family Dwelling Code, which do not involve any violation of the codes shall be exempt from this provision.
- (b) The building official shall attach his signature to every permit or he may authorize a subordinate to affix such signature thereto.
- (c) The building official may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building or structure have been filed complying with all the pertinent requirements of this Code. The holder of such permit for the foundations or other parts of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.
- (d) This Code shall not require changes in the plans, construction or designated use of a building for which a lawful permit has been heretofore issued or otherwise lawfully authorized and the construction of which shall have been actively prosecuted within ninety days after the effective date of this article and completed with dispatch.
- (e) At least twenty-four hours notice of start of work under a building permit shall be given to the building official.
- (f) It shall be unlawful to occupy or use a structure for which a building permit has been issued unless and until an occupancy permit has been issued by the Building Commissioner. A conditional occupancy permit may be issued by the Building Commissioner upon application, provided the structure or portion thereof may be safely occupied or used. In the event minor site improvements are not completed,

they may be required as a condition of the permit to be completed post-occupancy. In the event major site improvements are not complete, occupancy may be withheld, or a suitable bond may be provided by the applicant for all incomplete improvements. Any costs to the city associated to the review and acceptance of a bond or occupancy permit shall be borne by the applicant.

Section 5-3.8.1. Building to Offer Automatic Fire Sprinkler Systems. [Ord. No. 2100 §1, 9-15-2009]

A builder of single-family dwellings or residences or multi-unit dwellings of four (4) or fewer units shall offer to any purchaser on or before the time of entering into the purchase contract the option, at the purchaser's cost, to install or equip fire sprinklers in the dwelling, residence or unit. The provisions of this subsection shall expire on December 31, 2011.

Section 5-3.9. Applications. [Ord. No. 464, §§11-13]

- (a) *Form.* The application for a permit shall be submitted in such form as the building official may prescribe and shall be accompanied by the required fees.
- (b) *By Whom Made.* Application for a permit shall be made by the owner or lessee of the building or structure or agent of either or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.
- (c) *Description of Work.* The application shall contain a general description of the proposed work and its location, the uses and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building or structure and such additional information as may be required by the building official.
- (d) *Contents.*
 - (1) The application for the permit shall be accompanied by not less than two copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. When the quality of materials is essential for conformity to this Code, specific information shall be given to establish such quality; and the Codes shall not be cited or the term "legal" or its equivalent be used, as a substitute for specific information. The building official may waive the requirement for filing plans when the work involved is of minor nature.
 - (2) There shall also be filed a plot plan showing to scale the size and location of all new construction and all existing structures on the site, distances from lot

lines and the established street boundary line survey. In case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site or plot.

- (2) A lot or plot shall not be changed, increased or diminished in area from that shown on the official plot plan, unless a revised diagram showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved; except, that such revised plot plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.
 - (3) The building official may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the engineer or architect responsible for the design. Plans for a building more than two stories in height shall indicate how required structural and fire resistance rating integrity will be maintained and where a penetration will be made for electrical, mechanical, plumbing and communication conduits, pipes and systems.
- (e) *Amendments.* Subject to the limitations of section 5-3.2, amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued and such amendments shall be deemed part of the original application and shall be filed therewith.
- (f) *Time Limitation.* An application for a permit for any proposed work shall be deemed to have been abandoned six months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except, that for reasonable cause, the building official may grant one or more extensions of time for additional periods not exceeding ninety days each.
- (g) *Action on Application.* The building official shall examine or cause to be examined all applications for permits and amendments thereto within reasonable time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, he shall reject such application in writing, stating the reasons therefor. If he is satisfied that the proposed work conforms to the requirements of the codes and all laws and ordinances applicable thereto, he shall issue a permit therefor as soon as practicable.

Section 5-3.10. Payment of Fees Prerequisite to Issuance. [Ord. No. 464, §§13,16]

A permit shall not be issued until the fees prescribed in division 4 of this article have been paid.

Section 5-3.11. Posting. [Ord. No. 464, §12]

A true copy of the building permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work and until the completion of the same.

Section 5-3.12. Disposition of Approved Plans. [Ord. No. 464, §12.; Ord. No. 2149 §1, 12-7-2010]

The building official shall stamp or endorse in writing both sets of corrected plans "Reviewed For Code Compliance" and one (1) set of such approved plans shall be retained by him and the other shall be kept at the building site, open to inspection of the building official or his authorized representative at all reasonable times.

Section 5-3.13. Compliance of Work. [Ord. No. 464, §13]

- (a) The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of the codes, except as specifically stipulated by modification or legally granted variation as described in the application.
- (b) All work shall conform to the approved application and plans for which the permit has been issued and any approved amendments thereto.
- (c) All new work shall be strictly in accordance with the approved plot plan.

Section 5-3.14. Suspension and Revocation. [Ord. No. 464, §12.; Ord. No. 2149 §2, 12-7-2010]

- (a) Any permit issued shall become invalid if the authorized work is not commenced within one hundred eighty (180) days after issuance of the permit or if the authorized work is suspended or abandoned for a period of one hundred eighty (180) days after the time of commencing work or if a period of one hundred eighty (180) days has elapsed since the last approved inspection.
- (b) The building official may revoke a permit or approval issued under the provisions of this Code in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

Division 4

Fees

Section 5-3.15. New Construction. [Ord. No. 464, §16; Ord. No. 616, §1]

The building permit fee for all new construction and industrialized dwellings shall be assessed at three cents per square foot area of construction. This assessment figure shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall not be further adjusted during the course of the

year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

The square foot area of construction shall be determined by measuring the length of the structure and multiplying it by the width of the structure. The measurement shall include garages and the farthest projections, overhangs and cantilevers from the ground to the top of the construction. It shall not include unroofed or unenclosed porches or patios.

Section 5-3.16. Additions, Alterations or Remodeling. [Ord. No. 464, §16; Ord. No. 676, §6; Ord. No. 1622 §1, 8-6-2002]

The building permit fee for additions, alterations and remodeling shall be based on the value of construction in accordance with the following table:

\$500 to \$1,000	\$5.00
each additional \$1,000 or fraction	\$2.00

The value of construction shall be determined by the Building Commissioner, based on any or all of the following:

- (a) The estimated construction cost provided by the applicant;
- (b) Valuation tables provided by BOCA with modifiers to the St. Louis area;
- (c) Cost for similar construction projects; or
- (d) Cost estimates on a component basis developed by the Building Commissioner.

Valuation information shall be provided to the applicant and be reasonably, yet realistically, determined.

Section 5-3.17. Demolition Permits. [Ord. No. 464, §16; Ord. No. 616, §1.; Ord. No. 1073 §1, 10-5-1993]

The demolition permit shall be twenty-five dollars (\$25.00) per structure. This fee shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the periods of 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty - cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

Section 5-3.18. (Reserved)

[Repealed by Ordinance No. 676, §7]

Section 5-3.19. Inspections. [Ord. No. 464, §16; Ord. No. 616, §1.; Ord. No. 1073 §2, 10-5-1993]

In addition to the building permit fee, an inspection charge of five dollars (\$5.00) shall be paid to the city for each inspection deemed necessary by the Building Commissioner. The number of inspections required shall be determined after the review of the plans submitted and the number shall be indicated on the building permit application. This fee shall be adjusted on an annual basis, effective January 1 of the year in question, to reflect increases, if any, in the November offering next preceding this January 1 of the Cost of Living Index for all urban consumers for the St. Louis area published by the Bureau of Labor Statistics of the United States Department of Labor, as compared to the previous November offering, using the period 1967 = 100 as the base period. All such computation of increases made as provided herein shall be rounded to the nearest fifty cent figure, and shall not be further adjusted during the course of the year in question until the following January 1 of the next year in question, when such further adjustments, if warranted as provided herein, shall be made.

Section 5-3.19.1. Reinspection Charge. [Ord. No. 1073 §4, 10-5-1993; Ord. No. 1592 §1, 2-19-2002; Ord. No. 2149 §3, 12-7-2010]

- (a) There is hereby established a reinspection charge of twenty dollars (\$20.00), which shall be applicable to building reinspections, where it has been determined that the initial inspection resulted in a failure to comply with the applicable construction code. The permit applicant shall be responsible for the payment of such reinspection charge which shall be payable within thirty (30) days of the inspection, after which such charge shall be considered overdue. No permits shall be issued to an applicant who has not remitted payment to the City for any overdue reinspection charges.
- (b) All assessed reinspection fees must be paid prior to the request for a final inspection.

Section 5-3.20. Additional Costs. [Ord. No. 464 §16; Ord. No. 1086 §2, 2-15-1994; Ord. No. 1373 §1, 9-1-1998]

- (a) In addition to the building permit fee and inspection fees, all reasonable costs or fees charged to the City such as site and building plan review, inspection and permit fees, testing fees and the like, when deemed necessary by the Building Commissioner or City Administrator, shall be paid by the applicant before issuance of the building permit.
- (b) A plan review escrow procedure is hereby authorized to be formulated, implemented and amended by City staff to help ensure that all such costs charged to the City are recovered from applicants.
- (c) In the event that the City receives an application, petition or other request for any administrative or legislative consideration, and the applicant, petitioner or requestor owes the City any amounts from previous City consideration including any third (3rd) party expenses the City has incurred, the City reserves the right to refuse to

give any consideration to such application, petition or request until such time that the City has received payment in full or payment terms acceptable to the City.

Section 5-3.21. Doubling. [Ord. No. 464, §16]

The building permit fees provided for in sections 5-3.15, 5-3.16 and 5-3.17 above shall be doubled where work for which a building permit is required in section 5-3.8 is commenced prior to obtaining the permit or filing of the application. The payment of such double fees shall not relieve any person from fully complying with all provisions regulating such construction.

Section 5-3.22. Refunds. [Ord. No. 464, §16]

The Building Commissioner may cancel permits and refund the permit fee less a maximum penalty of five dollars or such lesser amount as the Building Commissioner shall set.

Section 5-3.23. Connections to Water or Sewer Systems. [Ord. No. 464, §16]

Where connection to the city sanitary sewer or water system is to be made, the Building Commissioner shall charge the required connection fees as provided for by ordinance.

Section 5-3.24. Mechanical Permits and Inspections. [Ord. No. 908, §2]

- (a) Buildings other than single-family residences shall be required to obtain a mechanical permit for each mechanical device provided for in the BOCA Basic Mechanical Code, 1987 edition.
- (b) There is hereby established a fee structure to be paid as a condition precedent to the issuance of permits for mechanical systems and equipment.
- (c) The inspection fee for mechanical systems and equipment to be installed in new construction, restructured and/or remodeled buildings, shall be fifteen dollars (\$15.00) per item.
- (d) The inspection fee for periodic inspections for mechanical systems and equipment already in place shall be ten dollars (\$10.00) per item.

Section 5-3.24.1. Building Permit Review, Issuance and Inspections Amusement Ride Inspection Services. [Ord. No. 1091 §1, 3-1-1994]

The Mayor or City Administrator is hereby authorized to enter into an agreement with St. Louis County for the following purposes pursuant to an agreement which is on file in the City Clerk's office and incorporated herein as if fully set forth:

- (a) Selective commercial and industrial zoning district building plan review, permit issuance and inspection services.
- (b) Mechanical division inspection services for all fixed and portable amusement rides.

Section 5-3.24.2. Deposit Required for New Residential Building Permit — Legends, Legends South, Etc. [Ord. No. 1609 §2, 5-21-2002]

Any person or entity submitting an application for a building permit for a new residential structure within the Legends, Legends South or any additions thereto shall deposit therewith, in addition to any other fees required, the sum of one thousand dollars (\$1,000.00) which shall be deposited into an interest-bearing account to be held by the City for use by the Legends Homeowners' Association for actual repairs to Legends Parkway.

Section 5-3.24.3. Private Sector Inspection Services — Governmental Entities. [Ord. No. 2128 §1, 6-15-2010]

As approved by the city, a governmental entity may propose to utilize a private sector inspection firm in addition to or in lieu of city of Eureka or St. Louis County inspection services. Such firm must be city-engaged and the permit applicant shall be responsible for any costs incurred in connection with the inspection firm's services.

Division 5
Demolition or Removal Generally

Section 5-3.25. Restoration of Premises. [Ord. No. 464, §15]

Whenever a structure is demolished or removed the premises shall be maintained free from unsafe or hazardous conditions by the proper regulations of the lot, restoration of established grades and the erection of the necessary retaining walls and fences in accordance with the provisions of article 13 of the Building Code.

Section 5-3.26. Demolition of Structures Generally. [Ord. No. 464 §14; Ord. No. 650 §1]

Before a structure can be demolished or removed, the owner or agent shall notify all utilities having service connections within the structure such as water, electric, gas, sewer and other connections. A permit to demolish or remove a structure shall not be issued until a release is obtained from the utilities, stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

Demolition work shall be diligently and continuously pursued until the demolition work is completed, once started. Demolition permits may be issued by the Building Commissioner for a period of thirty days. The Building Commissioner may grant a thirty-day extension of time for demolition permits for cause, when such extension request is made in writing. Any further extension of time beyond sixty days is subject to review and approval by the board of aldermen. All demolition sites shall be kept in a reasonably safe condition during the demolition process and be properly posted and barricaded. Unsafe conditions, as determined by the Building Commissioner, left in such manner for five consecutive days, shall be prosecuted in accordance with division 6 of article I herein.

Section 5-3.27. Removal of Structures Generally. [Ord. No. 464, §15]

Only when written notice has been given by the applicant to the owner of adjoining lots and to the owners of wired or other facilities of which the temporary removal may be necessitated by the proposed work, shall a permit be granted for the removal of a building or structure.

Division 6
Violations

Section 5-3.28. Notice. [Ord. No. 464, §18]

The Building Commissioner shall serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, removal, demolition, use or occupancy of a building or structure in violation of the provisions of this Code or in violation of detail statement or a plan approved thereunder or in violation of permit or certificate issued under the provisions of the Codes. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

Section 5-3.29. Prosecution. [Ord. No. 464, §18]

If the notice of violation is not complied with promptly, the building official shall request the legal counsel of the jurisdiction to institute the appropriate proceedings at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of the Codes or of the order or direction made pursuant thereto.

Section 5-3.30. Abatement Generally. [Ord. No. 464, §18]

The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation or to stop an illegal act, conduct, business or use of a building or structure in or about any premises.

Section 5-3.31. Emergency Measures. [Ord. No. 464, §20]

- (a) *Vacating Structures.* When, in the opinion of the building official, there is actual and immediate danger of failure or collapse of a building or structure or any part thereof which would endanger life or when any structure or part of a structure has fallen and life is endangered by the occupation of the building or structure, the building official is hereby authorized and empowered to order and require the inmates and occupants to vacate the same forthwith. He shall cause to be posted at each entrance to such building a notice reading as follows: "This structure is unsafe and its use or occupancy has been prohibited by the building official, and it shall be unlawful for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the same."
- (b) *Temporary Safeguards.* When, in the opinion of the building official, there is actual and immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, he shall cause the necessary work to be done to

render such building or structure or part thereof temporarily safe, whether or not the legal procedure herein described has been instituted.

- (c) *Closing Streets.* When necessary for the public safety, the building official may temporarily close sidewalks, streets, buildings and structures and places adjacent to such unsafe structure and prohibit the same from being used.
- (d) *Emergency Repairs Generally.* For the purpose of this section, the building official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
- (e) *Costs of Emergency Repairs.* Costs incurred in the performance of emergency work shall be paid from the treasury of the jurisdiction on certificate of the building official; and the legal authority of the jurisdiction shall institute appropriate action against the owner to recover such costs.

Section 5-3.32. Stop-Work Orders. [Ord. No. 464, §19]

- (a) *Notice to Owners.* Upon notice from the building commissioner that work on any building, structure, device or road is being prosecuted contrary to the provisions of the Codes or regulations controlling such construction, or in an unsafe or dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved or the owner's agent or to the person doing the work and shall state the conditions under which work may be resumed.
- (b) *Unlawful Continuance.* Any person who shall continue any work in or about the structure after having been served with a stop-work order, except such work as he is directed to perform to remove a violation or unsafe condition, shall be liable to a fine not less than ten dollars nor more than five hundred dollars.

Section 5-3.33. Penalties Generally. [Ord. No. 464, §§18,22]

Any person who shall violate a provision of this article or the Codes or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the building official or of a permit or certificate issued under the provisions of the Codes, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars, or by imprisonment not exceeding six months or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

ARTICLE II
Dangerous and Unsafe Buildings

Section 5-4. Title of Article. [Ord. No. 349, §1]

These regulations shall be known as the "Dangerous and Unsafe Structure Ordinance" of the city.

Section 5-5. Purpose and Scope of Article. [Ord. No. 349, §2]

It is the purpose of this article to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures which may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this article shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter exist in the city.

Section 5-6. "Dangerous Buildings" Defined. [Ord. No. 349, §3]

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings".

- (a) Those whose interior walls or other vertical structural members lift, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (b) Those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the supporting member or members, or fifty percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (d) Those which have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the city.
- (e) Those which are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.
- (f) Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live herein.
- (g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.
- (h) Those which have parts thereof which are so attached that they may fall or injure members of the public or property.
- (i) Those which because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this city.

Section 5-7. Declared Nuisance. [Ord. No. 349, §4]

All dangerous buildings within the terms of section 5-6 are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided herein.

Section 5-8. Standards for Repair, Vacation or Demolition. [Ord. No. 349, §5]

The following standards shall be followed in substance by the building commissioner and the board of aldermen, in ordering repair, vacation or demolition of any dangerous building:

- (a) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.
- (b) If the dangerous building is in such condition as to made it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.
- (c) In all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished.
- (d) In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this article or any ordinance of this city or statute of the state, it shall be repaired or demolished.

Section 5-9. Duties of Building Commissioner. [Ord. No. 349, §6]

The building commissioner shall have the duty under this article to:

- (a) Inspect or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist which render such places a dangerous building when he has reasonable grounds to believe that any such building is dangerous.
- (b) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article, and the building commissioner shall determine if there are reasonable grounds to believe that such building is dangerous.
- (c) Inspect any building, wall or structure reported by fire or police departments of this city as probably exiting in violation of this article.
- (d) Notify in writing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, it may be had by publication for two successive weeks in a newspaper qualified to publish legal notices, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the county, of any building found by him to be a dangerous building within the standards set forth in section 5-6.
- (d) The notice required shall state that (1) the owner must repair, vacate and repair or vacate and demolish such building in accordance with the terms of the notice and this article; (2) the occupant or lessee must vacate such building or have it repaired in accordance with the notice and remain in possession; (3) the mortgagee, agent or other persons having an interest in such building as shown by the land records of the recorder of deeds of the county wherein the land is located, may, at his own risk, repair, vacate or demolish or have such work done; provided, that any person

notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time not exceeding thirty days to commence the required work unless in the judgment of the building commissioner it is determined to be necessary to extend such time to commence the work. A reasonable time for completion of such work shall be determined by the building commissioner.

- (e) The notice provided for in this section shall state a description of the building or structure deemed dangerous, a statement of the particulars which make the building or structure a dangerous building and an order requiring the designated work to be commenced within the time, or extension thereof, provided for in the above subsection.
- (f) Report in writing to the board of aldermen the noncompliance with any notice to vacate, repair or demolish.
- (g) Appear at all hearings conducted by the board of aldermen and testify as to the condition of dangerous buildings.
- (h) Immediately report to the board of aldermen concerning any building found by him to be inherently dangerous and which he determines to be a nuisance per se. By resolution, the board of aldermen may direct that such building be marked or posted with a written notice reading substantially as follows:

"This building has been found to be a dangerous building by the building commissioner. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the recorder of deeds of St. Louis County. It is unlawful to remove this notice until such notice is complied with."

Provided, however, that the adoption of such a resolution by the board of aldermen and the posting of such notice shall not be construed to deprive all persons entitled thereto by this article to the notice and hearing prescribed herein.

Section 5-10. Duties and Powers of Board of Aldermen. [Ord. No. 349 §7]

The board of aldermen shall have the power pursuant to this article to:

- (a) Supervise all inspections required by this Article, and cause the Building Commissioner to make inspections and perform all the duties required of him by this Article. Upon receiving a complaint or report from any source, that a dangerous building exists in the City, it shall cause an inspection to be made forthwith. If it deems it necessary to the performance of its duties and responsibilities imposed herein, it may request an inspection and report be made to it by any other City department or retain services of an expert whenever it deems such service necessary.
- (b) Upon receipt of a report of the Building Commissioner, give written notice either by personal service or by certified mail, return receipt requested, or by publication for two (2) successive weeks, in a newspaper qualified to publish legal notices, at

least twenty-one (21) days in advance of a hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in such building as shown by the land records of the Recorder of Deeds of the County wherein the land is located, to appear before it on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Commissioner's notice provided for herein.

- (c) Upon receipt of a report of the Building Commissioner and after having given the notice required, the Board of Aldermen shall hold a hearing and hear such testimony as the Building Commissioner and the owner, occupant, mortgagee, lessee or any other person having an interest in such building as shown by the land records of the Recorder of Deeds of the County wherein the land is located, shall offer relative to the dangerous building. A record of testimony at the hearing shall be made.
- (d) Make written findings of fact from the evidence offered at such hearing as to whether or not the building in question is a dangerous building within the terms of Section 5-6 hereof.
- (e) If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the Board of Aldermen shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other persons having an interest in such building as shown by the land records of the County wherein the land is located, to repair, vacate or demolish any building found to be a dangerous building; provided, that any person so notified shall have the privilege of either repairing or vacating and repairing such building, if such repair will comply with the ordinances of this City or the owner or any person having any interest in such building as shown by the land records of the County wherein the land is located may vacate and demolish such dangerous building at his own risk to prevent the acquiring by the City of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.
- (f) If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the Board of Aldermen shall cause building or structure to be repaired, vacated or demolished as the facts may warrant; and the Board of Aldermen shall certify the charge for such repair, vacation or demolition to the City Clerk as a special assessment represented by a special tax bill against the real property affected; such tax bill shall be a lien upon such property and be enforced to the same extent and in the same manner as all other special tax bills. At the request of the taxpayer, this special tax bill may be paid in installments over a period of not more than ten (10) years; such assessment shall bear interest at the rate of eight percent (8%) per annum until paid.

Section 5-11. Appeal. [Ord. No. 349 §8]

Any owner, occupant, lessee, mortgagee, agent or any other person having an interest in a dangerous building as shown by the land records of the Recorder of Deeds of the County wherein the land is located, may, within thirty (30) days from the receipt of the order of the Board of Aldermen, appeal such decision to the Circuit Court of the County wherein the land is located, pursuant to the procedure established in Chapter 536 of the Revised Statutes of Missouri.

Section 5-12. Emergencies. [Ord. No. 349 §9]

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building as defined herein is immediately repaired, vacated or demolished, the Building Commissioner shall report such facts to the Board of Aldermen, and the Board of Aldermen, by resolution, may cause the immediate boarding up of all openings, repair, vacation or demolition of such dangerous building. The costs of such emergency boarding up, repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section 5-10, Subsection (f).

Section 5-13. Authority for Article. [Ord. No. 349 §15]

This Article is enacted pursuant to authority granted in Section 67.400 et seq., of the Revised Statutes of Missouri, 1969.

ARTICLE III
External Appearance Code ⁶

Section 5-14. Definitions. [Ord. No. 604 §1; Ord. No. 677 §1]

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

ACCESSORY STRUCTURE — A detached structure subordinate to the main or principal structure and located on the same lot, the use of which is customary to the main building.

BUILDING — Any structure designed for occupancy as a residence or as a business, including residential mobile homes located within an approved mobile home trailer coach park.

Section 5-15. Minimum Standards — Buildings or Structures. [Ord. No. 604, §1; Ord. No. 677, §2; Ord. No. 1979 §1, 6-19-2007]

- (a) *Foundations.* Every foundation shall be reasonably weathertight, rodent-proof and shall be kept in good repair. The foundation elements shall adequately support the building at all points.

⁶. Cross References — As to inspections of multi-family structures, see §5-3.1.1; as to inspection of commercial and industrial structures, see §5-3.1.2.

- (b) *Walls.* Every exterior wall shall be free of holes, breaks, loose or rotting siding and any other conditions which might admit rain or dampness to the interior portions of the walls or structure. All exterior surface material shall be kept in good repair.
- (c) *Windows, Doors and Hatchways.* Every window, exterior door and basement hatchway shall be substantially tight and shall be kept in sound condition and repair. Every window sash and door shall fit reasonably tight within its frame and shall be properly hinged. Every window shall be fully supplied with panes, or a rigid translucent substitute, free of cracks or holes. Screens, if installed, shall be kept in good repair.
- (d) *Stairways and Porches.* Every exterior stairway and every porch shall be kept in safe condition and sound repair. Every exterior flight of stairs and every porch floor shall be free of deterioration. Every porch rail and balustrade shall be firmly fastened and maintained in good condition. No flight of stairs shall have rotting, loose or deteriorating supports. No porch shall have rotting, loose or deteriorating supports or floors.
- (e) *Chimneys and Flues.* Any brick, masonry or other structural chimney or flue and any attached accessories shall be kept in sound repair.
- (f) *Gutters.* Every main structure shall be guttered when appropriate and with ample downspouts, properly positioned and in good repair.
- (g) *Roof.* All roofs shall be sufficiently waterproof, weatherproof and fitted to exclude the entrance of rain, rodents, birds and other impediments to the maintenance of interior health and safety. All surface materials shall be kept in good repair.
- (h) *Accessory Structures.* All accessory structures shall be maintained in good condition and shall be compatible with their intended use.
- (i) *Fixtures and Hardware.* Fixtures, including awnings, shutters and the like, shall be maintained in good condition.
- (j) *Exterior Surfaces.* All exterior material coatings, where appropriate, shall be properly applied and maintained.
- (k) *Mobile Homes.* Every mobile home shall be securely tied down in an approved manner. Every mobile home shall be entirely underskirted. Every mobile home exterior shall be free of major dents or scratches and fading or peeling paint. Every mobile home roof shall be watertight.
- (l) *Awnings and Awning Support Structures.* Awnings must be properly and completely secured to awning support structures and maintained so as to be free of tears, holes, warping, severe fading or defacement. Awning support structures must be covered by an awning at all times and maintained so as to be structurally sound and not present a public safety hazard.

Section 5-16. Same — Grounds. [Ord. No. 604, §1]

Every yard, court, vent passageway, driveway, sidewalk and other portion of the lot on which the dwelling stands shall be free of debris, weeds and other safety hazards, graded and drained so as to prevent the accumulation of stagnant water on any such surface. Driveways and sidewalks shall be maintained in good repair.

Gravel from gravel driveways must be retained in the driveways and kept clear of sidewalks and streets.

Section 5-17. Certificate of Compliance Required. [Ord. No. 2175 §1, 6-21-2011]

On change of ownership excepting newly constructed structures for which an occupancy permit has been issued upon completion of construction of a structure and issued within a thirty (30) day period prior to ownership change, it shall be unlawful for any person to hereafter occupy or any owner or agent thereof to permit the occupancy of any building or addition thereto, or part thereof, for any purpose until a Certificate of Exterior Appearance Compliance has been issued by the Building Department. The Certificate of Exterior Appearance Compliance shall state that the premises complies with all provisions of this Article.

Where there is a change in ownership of a building, the seller or the seller's agent shall complete the Application for Certificate of Exterior Appearance and shall pay an inspection fee of ten dollars (\$10.00).

The Certificate of Exterior Appearance compliance shall remain in effect for a period of six (6) months from the date of issuance.

Section 5-18. Enforcement. [Ord. No. 604, §1; Ord. No. 611, §4; Ord. No. 677, §4; Ord. No. 1075 §1, 12-21-1993; Ord. No. 2032 §1, 3-5-2008; Ord. No. 2175 §2, 6-21-2011]

It shall be the duty of the Building Commissioner to enforce the provisions of this Chapter. The Building Commissioner is authorized and directed to make exterior inspections only to determine whether buildings, structures or premises located within the City conform to the requirements of this Chapter. Inspections of property under this Article shall be made under any of the following conditions:

- (a) Upon change of ownership, excepting newly constructed structures for which an occupancy permit has been issued upon completion of construction of a structure and issued within a thirty (30) day period prior to ownership change.
- (b) Where there is exterior deterioration of a building.
- (c) Whenever there is a change of occupancy of a mobile home pad.

For the purpose of making such inspections, the Building Commissioner or his agent is authorized to enter upon the premises to examine exterior structure and ground conditions. If it is determined that such structure does not comply with the provisions of this Article, such structure will not be permitted use of any City-owned utility service until such time that the structure does comply with all provisions of this Article.

Section 5-19. Non-Compliance — Notice of Defects. [Ord. No. 604, §1; Ord. No. 2059 §1, 8-19-2008]

Whenever the Building Commissioner determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Article, he will give notice of such alleged violation to the person responsible therefor which shall:

- (a) Be in writing;
- (b) Contain a statement of the reason why it is being issued;
- (c) Allow a reasonable time for the performance of any act it requires;
- (d) Contain a statement of the applicable procedure;
- (e) Be served upon the owner or his agent, or the occupant, as the case may require. Such notice shall be deemed to be properly served upon such owner or agent, or on any occupant, if a copy thereof is:
 - (1) Served upon him personally; or
 - (2) Sent by priority mail to his last known address; or
 - (3) Posted in conspicuous place in or about the dwelling affected by notice; and
 - (4) Contains an outline of remedial action which, if taken, will effect compliance with the provisions of this Article.

Section 5-20. Same — Penalties for Failure to Remedy Defect. [Ord. No. 952, §1, 4-17-1990; Ord. No. 1076 §§1-2, 1-4-1994]

The owner of any buildings, structures or premises shall be given not less than ten (10) days nor more than thirty (30) days after the issuance of the notice in which to remedy the condition(s) therein specified; provided, however, that the Building Commissioner may, due to extenuating circumstances with which he acknowledges and agrees, extend the time for compliance with same for a period or periods not to exceed a total of one hundred eighty (180) days past the date of such initial notice issuance.

It shall be unlawful for any person to fail to comply with the terms of the notice of the violations.

It shall be the duty of the Building Commissioner to enforce this Article, and the Building Commissioner may sign and endorse external appearance code summons as part of his duty to enforce this Article.

The owner or agent of a building or premises in or upon which a violation of any provision of this Article has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which such violation has been committed or shall exist; or the owner, agent, lessee or tenant of any part of the building or premises in or upon which such violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars

(\$10.00) and not more than one hundred dollars (\$100.00) for each and every day that such violation continues; but if the offense be willful, on conviction thereof, the punishment shall be a fine of not less than one hundred dollars (\$100.00) or more than two hundred fifty dollars (\$250.00) for each day that such violation shall continue. Any person who, having been served with an order to correct any such violation shall fail to comply with the order within thirty (30) days after such service, shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).

Section 5-21. Same — Transfer of Ownership of Non-Complying Properties. [Ord. No. 2175 §3, 6-21-2011]

It shall be unlawful for the owner of any property upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the notice of violation have been complied with or until such owner shall first furnish to the grantee, transferee, mortgagee, or lessee a copy of the notice of violation issued by the Building Commissioner and shall furnish to the Building Commissioner a signed and notarized statement from the grantee, transferee, mortgagee or lessee acknowledging the receipt of such notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such notice of violation within the period of time provided in such notice.

Section 5-22. Appeals. [Ord. No. 604, §1]

All appeals of the determination made by the Building Commissioner regarding this Article shall be heard by the Board of Adjustment.

The Board of Adjustment shall have the following jurisdiction:

- (1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Enforcement Official.
- (2) To authorize a variance from the strict application of any provision of the Exterior Appearance Code where property owner can show that this would result in an exceptional practical difficulty and be a particular hardship as distinguished from a mere inconvenience to such owner, if such relief can be granted without substantial detriment to the public welfare and without substantially impairing the general purpose and intent of this Article.

Any person claiming to be aggrieved by any order, requirement, decision or determination made by the Enforcement Official hereunder, or seeking a variance from the provisions of this Article shall have the right to appeal to the Board of Adjustment. Such appeal or request for variance shall be taken within a reasonable time, as shall be prescribed by the Board by general rule, by filing with the Building Commissioner and with the Board a notice of appeal specifying the grounds thereof. Upon filing a notice of appeal or request for variance, the Enforcement Official shall forthwith submit to the Board of Adjustment all papers constituting the record upon which the action appealed from or request for variance was taken.

Appeals from the decision of the Board of Adjustment shall be as provided in Section 23- 195.

ARTICLE IV
Fences⁷

Section 5-23. Definitions. [Ord. No. 1605 §1, 4-16-2002]

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

FENCE — An assemblage of materials, including wood, metal, plastic, brick, stone, hedge row and thick growth of shrubs and the like, or combination thereof, constructed and/or allowed to grow for the purpose of separating property or for the purpose of keeping animals, persons or property contained safely within certain boundaries or property lines, or for the purpose of ornamentation.

FRONT YARD FENCE — A fence (or any portion thereof) that is located between the street right-of-way and the faces of the main building fronting same.

Section 5-24. Fence Permits. [Ord. No. 1605 §1, 4-16-2002]

A fence may be permitted by the City if the following criteria are satisfied:

- (a) *Fence Permit Application.* An application shall be made to the Building Commissioner which shall include:
- (1) Applicant's name and signature;
 - (2) Subject address;
 - (3) Plot plan depicting proposed location of fencing; and
 - (4) Pictures and/or drawings of the proposed fencing.
- (b) *Application Review.* The Building Commissioner or his assigns shall make a determination based on the proposed placement or type of fence if there are additional application requirements, or if special consideration is necessary based on such proposed placement or type of fence. If the proposed fence does not have additional application or review requirements, the following criteria shall be utilized:
- (1) That such fencing would not create a safety, fire or traffic hazard or other potentially injurious condition;
 - (2) That the materials and construction enhance the attractiveness of the property and any structures located thereon; and
 - (3) That the fence shall be installed with the finished side facing the neighboring property; and

⁷. Editor's Note — Ord. No. 1605 §1, adopted April 16, 2002, repealed Art. IV, §§5-23 — 5-28 and enacted the new provisions set out herein. Former article IV, §§5-23-5-28 derived from ord. no. 643 §1; ord. no. 1160 §§1-2, 5-2-1995; ord. no. 1223 §§1-2, 4-16-1996; ord. no. 1357 §1, 6-2-1998; ord. no. 1400 §1, 3-30-1999; ord. no. 1427 §§1-2, 10-19-1999; ord. no. 1478 §1, 9-19-2000; ord. no. 1497 §1, 11-21-2000.

- (4) That the character and appearance of the neighborhood will not be compromised.

Section 5-25. Front Yard Fences Prohibited — Generally. [Ord. No. 1605 §1, 4-16-2002]

It shall be unlawful for any person to construct any type of fence within a residentially zoned district in front yard areas except as provided in this Article. The front yard area includes the area between the structure and street right-of-way. On parcels of land that do not contain a structure, fences shall be prohibited in areas within the front yard area to the established building line for the particular zoning district.

Section 5-25.1. Same — Exceptions. [Ord. No. 1605 §1, 4-16-2002]

Front yard fencing may be permitted by the City if the following criteria are satisfied:

- (a) *Application.* An application shall be made to the Building Commissioner which shall include:
 - (1) Applicant's name and signature;
 - (2) Subject address;
 - (3) Plot plan depicting proposed location of fencing;
 - (4) Pictures and/or drawings of the proposed fencing; and
 - (5) Locations of similar installations in the area if they are personally known to exist.
- (b) *Application Review.* The Building Commissioner or his assigns shall make a determination of approval based on the following criteria:
 - (1) The fence shall be no greater than four (4) feet and be decorative or ornamental in nature with a design that maintains as much open space as possible and practical, and not be utilized for containment or security;
 - (2) The fence is constructed so as to provide enough free and clear space around all sides to allow for maintenance and repair of the fencing without requiring entry onto property not owned by the applicant. Front yard fencing may not be placed in City right-of-way, and placement over any easements is done at the applicant's risk, with such fencing being subject to removal without replacement or compensation;
 - (3) That such fencing would not create a safety, fire or traffic hazard or other potentially injurious condition;
 - (4) That the materials and construction enhance the attractiveness of the property and any structures located thereon;
 - (5) That the fence shall be installed with the finished side facing the neighboring property; and

- (6) That the character and appearance of the neighborhood will not be compromised.
- (7) In the event that the Building Commissioner is unable to reasonably make a determination as to the acceptability of a proposed front yard fence due to unusual conditions or mitigating circumstances, he shall refer same to the Planning and Zoning Commission for such a determination.

Section 5-25.2. Corner Lot Front Yard Fencing. [Ord. No. 1605 §1, 4-16-2002; Ord. No. 1684 §1, 5-6-2003]

A fence may be considered in the front yard of a corner lot, as corner lot is defined in the City's zoning chapter, if the following criteria are satisfied:

- (a) *Application.* An application shall be made to the Board of Aldermen which shall include:
 - (1) Applicant's name and signature;
 - (2) Subject address;
 - (3) Plot plan depicting proposed location of fencing;
 - (4) Pictures and/or drawings of the proposed fencing;
 - (5) Locations of similar installations in the area if they are personally known to exist.
- (b) *Application Review.* The Board of Aldermen shall make a determination of approval based on the following criteria:
 - (1) That the height of the fence does not exceed four (4) feet; however, on a site specific basis consideration may be given to a fence height not to exceed six (6) feet;
 - (2) That the fence is constructed so that there is a minimum of fifty percent (50%) open space as viewed on any line perpendicular to the vertical plane of the fence; however, on a site specific basis consideration may be given to a privacy fence with no such open space;
 - (3) That the forward most installation of the fence is the front facade of the applicant's house or the front facade of the adjacent house if it is closer to the street right-of-way; however, on a site specific basis consideration may be given to the fence extending beyond the front facade of the adjacent house;
 - (4) That the fence shall be installed with the finished side facing the neighboring property;
 - (5) That such fencing will not create a safety, fire or traffic hazard or other potentially injurious condition; and
 - (6) That the character of the neighborhood will not be compromised.

- (c) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of any proposal and the date of the meeting at which the proposal will be considered.

Section 5-25.3. Construction of Fencing which Adjoins Adjacent Front Yards. [Ord. No. 1605 §1, 4-16-2002]

A fence proposed for construction which would adjoin the front yard of an adjacent lot may be considered and authorized by the City only if the following criteria are satisfied:

- (a) *Application.* An application shall be made to the Board of Aldermen which shall include:
- (1) Applicant's name and signature;
 - (2) Subject address;
 - (3) Proposed use for the subject lot;
 - (4) Plot plan depicting proposed location of fencing;
 - (5) Pictures and/or drawings of the proposed fencing; and
 - (6) Locations of similar installations in the area if they are personally known to exist.
- (b) *Application Review.* The Board of Aldermen shall make a determination of approval based on the following criteria:
- (1) That any portion of the proposed fence that adjoins a front yard shall be no greater than four (4) feet in height and shall be constructed so that there is a minimum fifty percent (50%) open space as viewed on any line perpendicular to the vertical plane of the fence;
 - (2) That such fencing will not create a safety, fire or traffic hazard or other potentially injurious condition;
 - (3) That the fence shall be installed with the finished side facing the neighboring property; and
 - (4) That the character and appearance of the immediately adjacent property or the neighborhood will not be compromised.
- (c) *Notification.* Letters shall be sent to adjoining neighbors notifying them of any proposal and the date of the meeting at which the proposal will be considered.

Section 5-25.4. Front Yard Fence — Commercial and Industrial Zoning Districts. [Ord. No. 1605 §1, 4-16-2002]

Front yard fencing proposed for operation in commercial and industrial zoning districts may be permitted by the City if the following criteria are satisfied:

- (a) *Application.* An application shall be made to the Board of Aldermen which shall include:

- (1) Applicant's name and signature;
 - (2) Subject address;
 - (3) Plot plan depicting proposed location of fencing;
 - (4) Pictures and/or drawings of the proposed fencing; and
 - (5) Locations of similar installations in the area if they are personally known to exist.
- (b) *Application Review.* The Board of Aldermen shall make a determination of approval based on the following criteria:
- (1) The fence shall be no greater than six (6) feet in height and shall be designed so as to maintain as much open space as is possible and practical. Approved front yard fencing is not to be utilized to delineate property boundaries, and such shall be constructed so as to provide enough free and clear space around all sides to allow for maintenance and repair of the fencing without requiring entry onto property not owned by the applicant. Front yard fencing may not be placed in the City right-of-way and placement over any easement is done at the applicant's risk, with such fencing being subject to removal without replacement or compensation.
 - (2) That the fence shall be installed with the finished side facing the neighboring property;
 - (3) That such fencing would not create a safety, fire or traffic hazard or other potentially injurious condition; and
 - (4) That the character and appearance of the neighborhood will not be compromised.

Section 5-25.5. Front Yard Fence — Churches and Schools. [Ord. No. 1605 §1, 4-16-2002]

Front yard fencing proposed for operation in conjunction with churches and schools may be permitted by the City if the following criteria are satisfied:

- (a) *Application.* An application shall be made to the Board of Aldermen which shall include:
- (1) Applicant's name and signature;
 - (2) Subject address;
 - (3) Plot plan depicting proposed location of fencing;
 - (4) Pictures and/or drawings of the proposed fencing; and
 - (5) Locations of similar installations in the area if they are personally known to exist.
- (b) *Application Review.* The Board of Aldermen shall make a determination of approval based on the following criteria:

- (1) The fence shall be no greater than six (6) feet in height and shall be designed so as to maintain as much open space as is possible and practical. Approved front yard fencing is not to be utilized to delineate property boundaries, and such shall be constructed so as to provide enough free and clear space around all sides to allow for maintenance and repair of the fencing without requiring entry onto property not owned by the applicant. Front yard fencing may not be placed in the City right-of-way and placement over any easement is done at the applicant's risk, with such fencing being subject to removal without replacement or compensation.
- (2) That the fence shall be installed with the finished side facing the neighboring property;
- (3) That such fencing would not create a safety, fire or traffic hazard or other potentially injurious condition; and
- (4) That the character and appearance of the neighborhood will not be compromised.

Section 5-25.6. Front Yard Fence — LLRD Zoning District. [Ord. No. 1605 §1, 4-16-2002; Ord. No. 1707 §1, 8-5-2003]

Front yard fencing proposed for Large Lot Residential Zoning Districts may be permitted by the City if the following criteria are satisfied:

- (a) *Application.* An application shall be made to the Board of Aldermen which shall include:
 - (1) Applicant's name and signature;
 - (2) Subject address;
 - (3) Plot plan depicting proposed location of fencing;
 - (4) Pictures and/or drawings of the proposed fencing; and
 - (5) Locations of similar installations in the area if they are personally known to exist.
- (b) *Application Review.* The Board of Aldermen shall make a determination of approval based on the following criteria:
 - (1) Fence shall be no greater than six (6) feet in height;
 - (2) Fence shall not be placed in the City right-of-way, and placement over any easements is done at the applicant's risk, with such fencing being subject to removal without replacement or compensation;
 - (3) That the fence shall be installed with the finished side facing the neighboring property;
 - (4) That such fencing will not create a safety, fire or traffic hazard or other potentially injurious condition; and

- (5) That the character and appearance of the neighborhood will not be compromised.

Section 5-25.7. Front Yard Fence — Lots of Five or More Acres. [Ord. No. 1686 §1, 5-6-2003]

Front yard fencing proposed on lots of five (5) or more acres may be permitted by the City in any zoning district if the following criteria are satisfied:

- (a) *Application.* An application shall be made to the Board of Aldermen which shall include:
 - (1) Applicant's name and signature;
 - (2) Subject address;
 - (3) Plot plan depicting proposed location of fencing;
 - (4) Pictures and/or drawings of the proposed fencing; and
 - (5) Locations of similar installations in the area if they are personally known to exist.
- (b) *Application Review.* The Board of Aldermen shall make a determination of approval based on the following criteria:
 - (1) Fence shall be no greater than five (5) feet in height;
 - (2) Fence shall not be placed in the City right-of-way, and placement over any easement is done at the applicant's risk, with such fencing being subject to removal without replacement or compensation;
 - (3) That the fence shall be installed with the finished side facing the neighboring property;
 - (4) That such fencing will not create a safety, fire or traffic hazard or other potentially injurious condition; and
 - (5) That the character and appearance of the neighborhood will not be compromised.

Section 5-25.8. Rear and Side Yard Fence Height. [Ord. No. 1605 §1, 4-16-2002; Ord. No. 1686 §1, 5-6-2003]

Unless otherwise set forth in this Article, the following provisions with respect to rear and side yard fence height shall be applicable:

- (a) Rear and side yard fences in residential zoning districts shall be no greater than six (6) feet in height.
- (b) Rear and side yard fences in commercial or industrial zoning districts shall be no greater than eight (8) feet in height, or ten (10) feet in height if such fence is topped with barbed or razor wire.

Section 5-25.9. Regulations — Certain Types of Fences. [Ord. No. 1605 §1, 4-16-2002; Ord. No. 1686 §1, 5-6-2003]

- (a) The installation of barbed wire, razor wire, electrified or other fencing or fencing materials deemed harmful to humans is prohibited on any residentially zoned or residentially utilized lot less than two (2) acres in area. The Building Commissioner is to serve notice to the owners of any pre-existing installations of such fencing to remove same within no more than thirty (30) days after being served said notice.

Section 5-26. Non-Conforming Fences. [Ord. No. 1605 §1, 4-16-2002]

Front yard fences constructed prior to January 19, 1982, may continue to exist as non-conforming fences, so long as they remain in good condition and repair. Existing front yard fences, upon removal for any reason whatsoever, shall be required to conform to the provisions herein.

Section 5-27. Enforcement. [Ord. No. 1605 §1, 4-16-2002]

The Building Commissioner is hereby empowered to perform inspection, administer and enforce the provisions contained herein. The procedures outlined in Division 6 of Article I of this Chapter shall be used as the administrative procedure for this Article.

Section 5-28. Violations and Penalties. [Ord. No. 1605 §1, 4-16-2002]

Any person who shall violate a provision of this Article or who shall fail to comply with any of the requirements thereof, or who shall erect, construct, alter or repair a fence in violation of an approved plan or directive of the Building Commissioner, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not exceeding six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

ARTICLE V Modular and Prefabricated Structures

Section 5-29. Defined. [Ord. No. 718, §1]

For the purposes of this Article "modular" and "prefabricated" structures shall be deemed identical and shall be defined as any building or structure with over fifty (50) square feet of floor space, constructed and assembled at a place other than the place it is intended to remain permanently and/or designed to be transported after fabrication or construction on its own or detachable wheels, on a flatbed truck or any other truck, trailer or conveyance.

Section 5-30. Permit Required. [Ord. No. 718, §2; Ord. No. 2209 §1, 4-3-2012]

It shall be unlawful for any person to construct, place, keep or maintain at any place within the City a modular or prefabricated structure, unless a permit is issued by the Board of Aldermen for such purpose. A modular or prefabricated structure from which food and/or beverages are proposed to be sold may be considered under the special use permit process which may include conditions of approval including, but not limited to,

the total term of use, days and/or times of operation and the period of use within a single calendar year. A modular or prefabricated structure operated in connection with an outdoor recreational use may be considered under the special use permit process which may include operation and/or site specific conditions of approval.

Section 5-31. Unlawful Storage Containers or Trailers. [Ord. No. 925, §2]

It shall be unlawful for any person to construct, place, keep or maintain at any place within the City a storage container or trailer used for storage purposes, except those containers used for storing solid wastes as permitted in Section 18-3, unless a permit is issued by the Board of Aldermen for such purpose. Permits shall only be issued when the storage trailer or container is located upon the same lot or parcel as the place of the business in conjunction with which the trailer or container is used.

Section 5-31.1. (Reserved) ⁸

ARTICLE VI
Miscellaneous Regulations

Section 5-32. Regulating Placement of Electrical Utility Cables. [Ord. No. 956 §1, 5-15-1990]

- (a) It shall be unlawful for any person to erect or construct utility poles or lines for the transmission of electricity, telephone messages, or other public utility transmissions above the surface of the ground within the confines of the City, and all such distribution lines shall be installed underground. Overhead distribution feeder lines, overhead through lines, cable switching enclosures, pad mounted transformers, and services pedestals shall be allowed above ground but not directly over the improved street rights of way, except for purposes of crossing street rights of way.
- (b) Placement of said underground cables shall be subject to the building requirements of Chapter 5 of the Code of the City of Eureka. Nothing contained herein shall prevent the maintenance or repair of existing above ground utility poles and lines, the erection, construction, and maintenance of temporary poles and lines erected in connection with construction projects in the City, or the maintenance of utility poles and lines above the surface of the ground existing prior to the enactment of said Section.
- (c) Where unusual topographical conditions exist, the Board of Aldermen may grant exceptions upon application.
- (d) Whenever any streets, alleys, sidewalks, curbs, or gutters shall be disturbed or injured in the installing or maintenance of any equipment in pursuance of this Article, it shall be the duty of the owner of such equipment, on the completion of the work, to immediately restore and repair such street, alley, sidewalk, curb or gutter so disturbed or injured to the satisfaction of the Director of Public Works.

⁸. Editor's Note — Ord. no. 1264 §1, enacted 11-19-1996, repealed §5-31.1, which derived from ord. no. 1151 §1, 2-21-1995. The provisions of ord. no. 1264 are set out in §§23-91.1, 23-111.1 and 23-121.1 of this Code.

- (e) This Section does not apply to all present residential and platted commercial and industrial subdivisions, but shall apply to any new residential developments and new platted commercial and industrial subdivisions from and after May 15, 1990.

Section 5-33. Satellite Dish Regulations. [Ord. No. 1157 §§1-4, 4-18-1995; Ord. No. 1341 §1, 2-17-1998; Ord. No. 1360 §1, 6-2-1998]

- (a) For purposes of these regulations, a "*satellite dish*" is defined as a typically round and concave device of various diameters normally mounted outside of a dwelling unit or other building attached to the structure or mounted on the ground, intended for reception of digital data, video and/or audio signals transmitted by, from or through orbital satellites. Any reference to a satellite dish also includes all bases, equipment and hardware necessary to properly install and operate same.
- (b) For purposes of these regulations, an "*antenna*" is defined as any structure constructed and utilized to transmit and/or receive electromagnetic waves, including but not limited to, radio signals, television signals, telephone or cellular signals, digital data signals, shortwave radio signals, satellite signals, and/or any other communication device signal not listed herein. These regulations apply to all antenna whether mounted outside of a dwelling unit or other building attached to the structure or mounted on the ground. Any reference to an antenna also includes all bases, equipment and hardware necessary to properly install and operate same. Subject to the discretion of the Board of Aldermen, these regulations are not intended to apply to any commercial communication relay and transfer tower exceeding six (6) feet regulated under any other Section of the City Code.
- (c) The following standards shall apply to the location, installation, appearance and operation of antenna and satellite dishes within all zoning districts:
 - (1) A satellite dish and/or antenna must be located on property which it is serving.
 - (2) Not more than one (1) satellite dish may be operated on a single lot.
 - (3) Not more than one (1) antenna may be operated on a single lot.
 - (4) The combination of one (1) satellite dish and one (1) antenna may be operated on a single lot as long as the property owner follows all regulations contained herein.
 - (5) For purposes of these regulations, each residential unit in a multi-family structure shall be considered a single lot and the occupants of each said unit may apply to construct or erect nor more than one (1) satellite dish and one (1) antenna. Each applicant under this Subsection must submit with his/her building permit application a statement in writing signed by the property owner, or the property owner's agent, consenting to the construction or erection of the proposed satellite dish or antenna.
 - (6) Satellite dish and/or antenna plans including a site plan and a building permit application must be submitted to the City, and a building permit must be issued prior to any portion of same being installed. All rules and regulations

regarding building permits apply to proposed satellite dishes and/or antennae, except that no fee whatsoever, including any and all application fees, shall be collected by the City for the issuance of a building permit under these provisions.

- (7) A satellite dish and/or antenna not attached to a structure may be located only in a rear yard and must observe setback and all other requirements applicable to the standards set forth for ancillary structures and appurtenances in the zoning district for which there is a proposed satellite dish installation.
- (8) A satellite dish and/or antenna mounted on a single-family dwelling or on a one-story multi-family structure may not exceed thirty-six (36) inches in diameter, and whenever possible should be mounted on the side or rear of a structure in such a manner so as not to face any roadway.
- (9) A satellite dish and/or antenna exceeding twenty-four (24) inches in diameter may be mounted on the roof of a two-story three (3) or more unit multi-family structure or on the roof of a commercial or industrial structure, subject to all provisions stated herein.
- (10) A ground based satellite dish and/or antenna may be installed at a height no greater than six (6) feet, unless a greater height is necessary for normal signal reception. An applicant may be required to provide evidence from the appropriate professionals to substantiate a particular proposed installation exceeding the height limitation contained herein. Said measurement shall be calculated from the established grade to the highest point of the proposed satellite dish and/or antenna.
- (11) A roof-based satellite dish and/or antenna mounted on the roof of a single-family dwelling or on a one-story multi-family structure may be installed at a height no greater than thirty-six (36) inches above the highest point of the dwelling's rooftop, excluding all chimneys and venting apparatus, unless a greater height is necessary for normal signal reception. An applicant may be required to provide evidence from the appropriate professionals to substantiate a particular proposed installation exceeding the height limitation contained herein. Said measurement shall be calculated from the established rooftop to the highest point of the proposed satellite dish and/or antenna.
- (12) A roof-based satellite dish and/or antenna mounted on the roof of a two-story, three (3) or more unit multi-family structure or on the roof of a commercial or industrial structure may be installed at a height no greater than two (2) feet beyond the highest point of the dwelling's rooftop, excluding all chimneys and venting apparatus, unless a greater height is necessary for normal signal reception. An applicant may be required to provide evidence from the appropriate professionals to substantiate a particular proposed installation exceeding the height limitation contained herein. Said measurement shall be calculated from the established rooftop to the highest point of the proposed satellite dish and/or antenna.

- (13) A satellite dish and/or antenna shall be installed and operated in an aesthetically pleasing manner by the use of measures, including, but not limited to the use of landscaping or other suitable screening. The satellite dish and/or antenna shall not be of an offensive design or color, and whenever possible shall be of neutral colors which do not contrast with the surroundings.
- (d) These regulations do not grant authority for the outdoor display of such devices for purposes of selling same or service associated therewith, and any such authority shall be by special use permit for outdoor display of merchandise.
- (e) As is the case with many regulations including these, subdivision indentures may be more restrictive than City ordinances, thus superseding them when more restrictive.
- (f) The purpose of these regulations is to protect the health and safety of the citizens of Eureka by regulating the size, height, and location of satellite dishes and/or antennae.

These regulations are intended to prevent satellite dishes and/or antennae from being located in areas obstructing vehicular or pedestrian traffic, or in any area that may create an unreasonable risk of harm to people, animals, or property. Furthermore, these regulations are intended to ensure that any satellite dish and/or antenna shall be constructed of quality material and quality craftsmanship in an effort to reduce the possibility of physical harm to people, animals, or property due to improper or inferior construction and/or installation. Additionally, these regulations are intended to advance the general welfare of the citizens of Eureka by protecting the aesthetic appearances of neighborhoods and other areas from inappropriate satellite dishes and/or antennae.

Section 5-34. Outdoor Storage and/or Operation of Appliances. [Ord. No. 1375 §1, 9-15-1998]

- (a) For purposes of this Section, an *"appliance"* shall be defined as a household or commercial device or machine designed for performing a specific task, either mechanically or electrically. Appliances shall include, but not be limited to, washers, dryers, water heaters, trash compactors, dishwashers, microwave ovens, conventional ovens, ranges, stoves, wood stoves, air-conditioners, refrigerators, freezers, dehumidifiers and humidifiers. As required, the City shall make a determination as to what constitutes an appliance.
- (b) No appliance shall be stored or operated outdoors in the front or side yards of a parcel, nor be stored or operated outdoors on any portion of a parcel not containing a structure. An exception to this restitution are appliances stored outdoors adjacent to the curb awaiting pickup by a refuse hauler or other party for the purpose of disposing of same.
- (c) These provisions shall not be applicable to any appliance stored or operated outdoors which is an integral part of a structure situated on a parcel such as an air-conditioner, wood burning stove or other appliance, with the condition that any

such installation was authorized by the City or its agents with proper permits and same remains in good working condition.

Section 5-35. Construction Operating Times. [Ord. No. 1718 §1, 9-16-2003; Ord. No. 1939 §1, 8-29-2006]

- (a) *Definitions.* As used in this Section, the following definitions apply unless the context clearly indicates another meaning:

DAYTIME HOURS — 7:00 A.M. to sunset (as published by the Astrological Applications Department of the U.S. Naval Observatory) Monday through Friday and 8:00 A.M. to sunset (as published by the Astrological Applications Department of the U.S. Naval Observatory) Saturday and Sunday.

EMERGENCY WORK — Work necessary to restore property to a safe condition following a public calamity or work required to protect person or property from imminent exposure to danger.

HEAVY EQUIPMENT — Any vehicle or other device used in construction including, but not limited to, large trucks, dump trucks, graders, bulldozers, jackhammers, loaders, excavators, trenchers, backhoes, earth-moving equipment, dozers or air compressors.

PERSON — Any entity, corporation, partnership or individual.

RESIDENCE — Any building which is designed or used exclusively for residential purposes, except hotels and motels.

- (b) *Restrictions Generally.* No person or entity shall cause or allow construction work of any kind that creates a sound level measured at the property line in excess of sixty (60) decibels (normal conversational speech measured at one (1) foot from the source) including, but not limited to, hammering, running of motors, mixing materials, the operation of any heavy construction equipment, hauling, erection (including excavation), demolition or grading equipment, alteration or repair of any building or structure within one thousand (1,000) feet of a residence other than during daytime hours, except in the case of urgent necessity in the interest of public safety and then with permission of the City Administrator, Public Works Director or Building Commissioner for a period not to exceed three (3) days which may be renewed for a like or less period if the emergency continues.

- (c) *Exceptions.* The following shall constitute exceptions to the time limitations as herein specified:

- (1) Emergency work to repair or maintain public/private utility facilities;
- (2) Emergency work to repair equipment or facilities damaged or rendered inoperable as a direct result of unavoidable damage or upset conditions providing such occurrence is reported to the City Administrator, Public Works Director or Building Commissioner within twenty-four (24) hours after the occurrence;

- (3) The repair, maintenance or construction of public highways of the State, County or municipal government, or such public or quasi-public municipal corporations as may be established under the Constitution of the State of Missouri.

Section 5-36. Neon Lighting Prohibited. [Ord. No. 1823 §1, 3-15-2005]

- (a) For purposes of this Section, "*neon lighting*" shall be generally defined as glass or plastic tubing containing any gaseous material which is electrically charged to produce illumination. "*Neon lighting*" shall also include light emitting diode (LED) materials which are designed to be installed and operated in a manner so as to have a similar appearance to gas filled tubing.
- (b) The use of neon lighting on all structures is hereby prohibited, except as may be allowed in connection with certain neon building signage authorized by Chapter 19A of this Code. This prohibition shall include internally mounted neon lighting which is visible from outside of the structure.

Section 5-37. Structures in Front, Side or Rear Yards. [Ord. No. 1852 §1, 9-6-2005; Ord. No. 2302 §1, 6-17-2014]

Any structure proposed to be constructed or placed in a front, side or rear yard of any lot within a residential zoning district that is in excess of four (4) feet in height or is in excess of fifty (50) square feet in area shall require approval by the Board of Aldermen subject to the following criteria (except for detached accessory buildings as regulated by Section 23-165):

- (a) *Application.* An application shall be made to the Board of Aldermen which shall include:
 - (1) Applicant's name and signature;
 - (2) Subject address;
 - (3) Plot plan depicting proposed location of structure;
 - (4) Pictures and/or drawings of the proposed structure; and
 - (5) Locations of similar structure installations in the area if they are personally known to exist.
- (b) *Application Review.* The Board of Aldermen shall make a determination of approval based on the following criteria:
 - (1) That the height and/or area of the structure is within the permissible standards;
 - (2) That such structure will not create a safety, fire or traffic hazard or other potentially injurious condition; and
 - (3) That the character of the neighborhood will not be compromised and/or property values will not be adversely affected.

- (c) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of any proposal and the date of the meeting at which the proposal will be considered.
- (d) *Exemptions.* These provisions shall not be applicable for fences, seasonal decorations, playground equipment and structures within the Large Lot Residential District zoning classification.

Section 5-38. Structures on Lots having three (3) or more Front Yards. [Ord. No. 1949 §1, 11-21-2006]

In instances where a lot has three (3) or more front yard areas, a structure may be considered by the Board of Aldermen to be located in a front yard area subject to the following criteria:

- (a) *Application.* An application shall be made to the Board of Aldermen which shall include:
 - (1) Applicant's name and signature;
 - (2) Subject address;
 - (3) Plot plan depicting proposed location of structure;
 - (4) Pictures and/or drawings of the proposed structure; and
 - (5) Locations of similar structure installations in the area if they are personally known to exist.
- (b) *Application review.* The Board of Aldermen shall make a determination of approval based on the following criteria:
 - (1) That the height and/or area of the structure is within the permissible standards;
 - (2) That such structure will not create a safety, fire or traffic hazard or other potentially injurious condition; and
 - (3) That the character of the neighborhood will not be compromised and/or property values not adversely affected.
- (c) *Notification.* Letters shall be sent to the adjoining neighbors notifying them of any proposal and the date of the meeting at which the proposal will be considered.

Section 5-39. Decontamination of Structures Where Methamphetamine Has Been Produced. [Ord. No. 2273 §1, 10-1-2013]

- (a) *Purpose.* Pursuant to the Eureka Building Regulations, the following standards, requirements and protocols are established for the cleanup of illegal laboratories used to manufacture methamphetamine which property owners are required to meet.
- (b) *Applicability.* The requirements of this Section apply when the owner of property that has been posted as an unsafe structure receives notification from the Code Official of the City of Eureka that chemicals, equipment, or supplies indicative of a

drug laboratory were located at the property, or when a drug laboratory is otherwise discovered, and the owner of the property where the drug laboratory was located has received notice.

- (c) *Definitions.* As used in this section, the following terms shall have these prescribed meanings:

AGENT OF THE OWNER — A current employee or representative of the owner of record who was in the employ of that owner at the time the property was determined to be an illegal drug manufacturing site; or is a current employee or representative of any new owner.

BUILDING — A structure which has the capacity to contain humans, animals or property.

CHEMICAL STORAGE AREA — Any area where chemicals used in the manufacture of methamphetamine are stored or have come to be located.

CODE OFFICIAL — The Building Commissioner for the City of Eureka, Missouri, or his designee.

CONTAMINANT — A chemical residue that may present an immediate or long-term threat to human health and the environment.

CONTAMINATION OR CONTAMINATED — The presence of chemical residues which may present an immediate or long-term threat to human health or the environment.

CONTRACTOR — One (1) or more qualified individuals or commercial entities hired to perform work in accordance with the requirements of this protocol.

COOKING AREA — Any area where methamphetamine manufacturing is occurring or has occurred.

DECONTAMINATION — The process of reducing the level of contamination to the lowest practical level using currently available methods. At a minimum, decontamination must reduce contamination of specified substances at or below the concentrations allowed by this protocol.

FUNCTIONAL SPACE — A space where the spread of contamination may be expected to occur relatively homogeneously, compared to other functional spaces. The functional space may be a single room or group of rooms designated by an inspector who, based on professional judgment, considers the space to be separate from adjoining areas with respect to contaminant migration. Typical examples of functional spaces include a crawl space, an attic, and the space between a dropped ceiling and the floor or roof deck above.

MEDIA — The physical material onto which sample substrate is collected. "Media" includes gauze, glass fiber filters, etc.

METHAMPHETAMINE — Dextro-methamphetamine, levo-methamphetamine, and unidentified isomers of the same, any racemic mixture of dextro/levo methamphetamine, or any mixture of unidentified isomers of methamphetamine. The term includes derivatives, conjugates, oxides and reduced forms of the basic structure associated with

the formation of methamphetamine. For the purposes of this protocol, this term includes amphetamine, ephedrine and pseudoephedrine.

PERSON — Any individual, public or private corporation, partnership or association.

PROPERTY — Anything that may be the subject of ownership or possession, including, but not limited to, land, buildings, structures, vehicles and personal belongings.

PROPERTY OWNER — For the purposes of real property, the person holding fee title to real property. "Property owner" also means the person holding title to a manufactured home. With respect to personal property, the term means the person who lawfully owns such property.

REMOVAL — The taking out or stripping of material or surfaces to eliminate the potential for exposure to contaminants on or in the material or surfaces.

SUBSTRATE — The material being collected. Substrates may include soils, water, painted surfaces, carpet or carpet debris, unidentified powders, dust, etc.

UNSAFE STRUCTURE — Any structure, building or premises that has the defects or characteristics contained in Section 116, International Building Code, and thereby constitute a hazard to safety, health or public welfare.

VACUUM SAMPLE — A non-airborne dust sample collected from a known surface area of a porous surface or material using standard micro-vacuum sampling techniques.

WASTE DISPOSAL AREA — Any area where chemicals used or generated in the manufacture of methamphetamine are disposed or have come to be located.

WIPE SAMPLE — A surface sample collected by wiping a sample media on the surface being sampled.

(d) *Assessment.* When law enforcement personnel discover property where methamphetamine has been produced, or where the equipment and chemicals to produce methamphetamine are present in sufficient quantities to warrant enforcement action, they will take samples using a methamphetamine field test kit. The field test used shall be of the type approved by law enforcement officials, industry experts and the courts, and shall measure the presence of methamphetamine residue on surfaces at a level that is at least as high as the level established in Subsection (h) below. The assessment shall be performed by personnel who the Chief of Police has determined are appropriately trained, and the assessment shall include, but not be limited to, the following:

- (1) Assessment of the number and type of structures present on the property where methamphetamine may have been produced.
- (2) Identification of structural features that may indicate separate functional spaces, such as attics, false ceilings and crawl spaces, basements, closets and cabinets.
- (3) Identification of the manufacturing methods based on observations, reports from law enforcement personnel and knowledge of manufacturing methods.

- (4) Identification of possible areas of contamination based on visual observation, reports from law enforcement personnel, proximity to chemical storage areas, waste disposal areas or cooking areas, signs of contaminations such as staining, etching, fire damage, outdoor areas of dead vegetation or based on the professional judgment of the person collecting the samples.
 - (5) Identification of adjacent units and common areas to determine the likelihood that contamination has spread or may have been tracked.
 - (6) Identification of common ventilation systems with adjacent units or common areas.
- (e) *Sampling Plan.* On the basis of the analysis of these areas and the judgment of the person collecting the data, a sampling plan will be formulated to determine the areas with the greatest probability of containing the highest possible concentrations of contaminants. Samples will be taken with techniques that are appropriate for the surface being sampled using media and testing kits designed to detect the presence of methamphetamine, the results of which are determined as the samples are collected.
- (f) *Posting of Notice.* If the field test reveals the presence of methamphetamine at levels in excess of the levels established herein, the structure shall be considered unsafe for human habitation and it will be posted as an unsafe structure by the Code Official. A structure or unit that is posted as unsafe shall not be occupied until the Code Official orders that status removed.
- (g) *Procedures For Assessment, Sampling and Testing.*
- (1) While posting the structure constitutes notice, the Code Official shall also attempt to contact the owner of record of the affected property, or the owner's agent, by sending a letter via certified mail. Whether the certified mail is collected or is returned to the Code Official as undeliverable, the City shall proceed on the basis of the posted notice.
 - (2) The notice shall inform the owner to contact the Building Department to establish a schedule for decontaminating the structure. If the owner does not contact the City within the time specified in the notice, the Code Official may request Ameren Missouri to disconnect the electric service to ensure the structure is not reoccupied until decontamination is performed.
 - (3) If the owner contacts the City within the prescribed period, the owner may request permission to have the property retested. If the owner chooses to retest the property, the owner must employ the services of a company that the Code Official shall determine is qualified to perform sampling and to analyze the samples. If the owner chooses to hire a company to collect new samples, a trained law enforcement officer for the City must be present when the samples are taken and the owner shall pay an inspection fee of forty dollars (\$40.00), payment of which must be made prior to removal of the unsafe structure declaration. The results of the analysis shall be provided to the Code Official.

- (4) Testing shall be performed in accordance with the appropriate sections of the United States Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August, 2009).
- (h) *Contamination Levels.* A structure will be considered unsafe and non-compliant if it is found to contain more than the following levels of any of these chemicals:
- (1) Methamphetamine in a concentration equal or greater than 0.1 $\mu\text{gram}/100\text{ cm}^2$.
 - (2) If it is determined that the phenyl-2-propanone (P2P) method of methamphetamine manufacturing was used, surface levels for lead in excess of 20 $\mu\text{g}/\text{ft}^2$ and vapor samples for Mercury in excess of 50 ng/m.
- (i) *Decontamination.*
- (1) If testing reveals the presence of contamination in levels that exceed the standards set forth in this Section, the owner is required to hire a qualified contractor to decontaminate the structure and shall advise the Code Official of the schedule for decontamination. At a minimum, to be qualified to perform decontamination, contractors and all personnel must have completed the forty-hour hazardous waste operations and emergency response (HAZWOPER) training [Occupational Safety and Health Administration (OSHA) 29 CFR 1910] and a clandestine drug lab assessment and decontamination course that is provided by a sponsor acceptable to the Code Official.
 - (2) The schedule for the work and evidence that the contractor has met the minimum training requirement must be submitted for approval to the Code Official within seven (7) business days of the posting of the notice. Approval will be based solely on the timeliness of the schedule and qualifications of the contractor. Approval or rejection of the schedule will be provided within three (3) business days of submission. If rejected, the owner will be informed of specific reasons for the rejection and will be required to amend the schedule or the proposed contractor. Decontamination shall be performed in accordance with the appropriate sections of the United States Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August, 2009).
 - (3) If the owner of property determined to be in violation of the minimum allowable levels of chemicals as provided in this protocol fails to voluntarily mitigate the violation, the Code Official may serve a notice of violation and proceed in accordance with Section 114 of the International Residential Code or may declare the structure as unsafe and proceed in accordance with Sections 112 and 116 of the International Building Code. The Code Official may request Ameren Missouri to disconnect electrical service until the decontamination is complete.
- (j) *Post-Decontamination Sampling.* When the owner arranges for decontamination, following the completion of the work, the owner will notify the City that the work is complete and schedule a time for post-remediation testing. The structure must be

tested in the presence of a trained law enforcement officer for the City. The owner must provide test results as evidence that the property is compliant with this regulation. Should the results of the post-remediation sampling show the presence of methamphetamine in excess of the standards established by this Chapter, further steps shall be taken to decontaminate the structure and additional testing shall be done in the presence of a trained law enforcement officer for the City. Each time an inspector for the City is present, the owner, shall pay an inspection fee of forty dollars (\$40.00). The post-remediation sampling and testing must be performed by a company the Code Official has determined to be qualified and done in accordance with the appropriate sections of the United States Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August, 2009).

- (k) *Final Action.* After the property has been decontaminated and the Code Official is in possession of evidence that the pertinent chemical levels are below the levels established by this regulation, the structure will be considered safe and suitable for human habitation. If electric service has been disconnected, the Code Official will notify Ameren Missouri that the unsafe condition has been mitigated and service can be restored. The property owner shall be responsible for any reconnection fees.
- (l) *Penalties.* Any person violating any of the provisions of this Section shall, upon conviction, be subject to the general penalty provisions set forth in Section 1-7 of the Eureka Municipal Code.

ARTICLE VII

Retaining Wall Regulations

Section 5-40. Non-Residential Retaining Walls. [Ord. No. 1592 §3, 2-19-2002; Ord. No. 1718 §1, 9-16-2003]

The use of wood-based retaining wall construction materials is prohibited in any non-residential zoning district.