

TITLE V. BUILDING AND CONSTRUCTION

Editor's Note--Resolution No. 04-1.1, adopted June 9, 2004, sets forth the following. The jurisdiction of the City of Velda City will use its best efforts to become a safe community by participating in hazard identification and risk assessment to implement mitigation practices that can reduce vulnerability for residents and businesses.

CHAPTER 500: BUILDING PROVISIONS

ARTICLE I. GENERAL PROVISIONS

SECTION 500.010: PERMIT REQUIRED

No person, firm or corporation shall erect, alter, enlarge or repair (except minor repairs) any building or structure intended to be used for the shelter, support or enclosure of persons, animals or chattels, nor wreck or remove such building; nor erect any retaining wall constructed of masonry tile or concrete within Velda City, St. Louis County, Missouri, without first obtaining permit authorizing same from the Board of Aldermen of the said City. (CC 1974 §500.010; Ord. No. 29 §1, 11-8-40)

SECTION 500.020: COST OF PERMITS

- A. Any person or persons desiring to alter, remodel or add to any structure in Velda City must first submit the plans and contract to the City. Upon approval of the submitted plans, a building permit shall be issued.
- B. The fee for a building permit as required herein shall be fifty dollars (\$50.00) for up to the first (1st) five hundred dollars (\$500.00) of the construction cost, one hundred dollars (\$100.00) for up to the second (2nd) five hundred dollars (\$500.00) of the construction cost, and ten dollars (\$10.00) for any part of one thousand dollars (\$1,000.00) thereafter.
- C. For the purposes of this Chapter the term "*person*" as used herein is construed to include an association, entity, partnership, firm, company or corporation. (CC 1974 §500.020; Ord. No.

SECTION 500.030: APPLICATION FOR PERMIT

- A. Application for permit shall be made in writing to the Board. All applications shall state clearly and fully the work to be done, the cost thereof and shall be signed by the owner or his/her agent and filed with the Board.
- B. True copies of so much of the plans and specifications as in the opinion of the Board may be required to illustrate the features of the construction of the building shall be filed with the Board and remain on file until completion or occupation of said building after which such plans and specifications shall on demand be returned to the parties who deposited them.
- C. All plans presented for examination or filing shall be drawn on trading cloth or other material equally durable, to a scale, in India ink or other indelible ink, or may be drawings reproduced by the same print or other process. The building line shall be indicated on the foundation plan and the plan of each floor and all necessary elevations and section drawings to fully and clearly demonstrate the character and construction of the proposed work shall be furnished, together with a plan of the lot upon which the building is to be built or altered, showing its proposed location on the lot. The plat shall be drawn to scale, and shall have written thereon the principal dimensions of the lot and building and their location.
- D. No plans shall be accepted unless accompanied by specifications sufficient to enable the Board to obtain full and complete information as to the character of the work to be done and the time to be occupied in doing it. The specifications and plans shall be in duplicate, agree in every respect, and shall state the block and lot number where the building is to be erected and contain the name and address of the owner, architect and builder. (CC 1974 §500.030; Ord. No. 29 §3, 11-8-40)

SECTION 500.040: APPROVAL

- A. If the matters mentioned in any application for a permit, or if the plans and specifications accompanying and illustrating the same indicate to the Board that the work to be done is not in all respects in accordance with the provisions of this Chapter, they shall refuse to issue a permit until such applications, plans and specifications shall have been made to conform in every respect to the requirements hereof, and when such applications and plans and specifications conform thereto the Board shall issue a permit, and shall file said application, and shall apply to the plans and specifications their official stamp which shall imply that the plans and specifications to which the same have been applied, comply with the terms of this Chapter. The one (1) set of plans and specifications so stamped shall then be returned to such applicant.

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- B. If the work upon any building shall be conducted in violation of the provisions of this Chapter, as to the use or application of material or workmanship or by deviation from the approved plans and specifications or by a false statement as to any material part contained in or accompanying the application upon which any permit has been issued, it shall be the duty of the Board to revoke the permit for such building operations. And it shall be unlawful after the revocation of a permit for any person to proceed with such building operation until said permit shall first have been reinstated or reissued by the Board. Before a permit which has been revoked, for any of the causes hereinbefore mentioned shall be reinstated, the entire building and building site shall first have been placed in condition corresponding with the requirements of this Chapter, and any work or material applied to the same, in violation of the provisions of this Chapter shall be removed from said building. The reinstating or reissuing of a permit shall be without cost to the owner, unless the cost of said building shall be found to have been materially increased over the amount stated in the application, in which case the fee shall be prorated as provided in Section 500.020 hereof.
- C. No permit shall be of any force or effect after the expiration of one (1) year from the date of its issuance. If, after a permit for the erection, enlargement, or alteration of a building, retaining wall, or fence wall, or for the repair or removal of any building, or for any other purpose authorized by this Chapter, shall have been granted and the operation called for by such permit shall not have been begun within one (1) year from the date thereof, or if such operations when begun, are not completed within one (1) year next after the issuance of said permit, then said permit shall be void, and before such operations can be begun or completed a new permit shall be procured and the fee paid as required by this Chapter for the original permit. (CC 1974 §500.040; Ord. No. 29 §4, 11-8-40)

SECTION 500.050: INSPECTION

It shall be the duty of the owner or his/her duly authorized agent or builder to notify the Board in writing whenever any building is ready for inspection. No building, partition, or structure shall be covered in by lathing, plastering, sheathing, or otherwise, until it shall have first been inspected by the Board or their duly authorized agent, and the fee for said inspection shall have been paid. (CC 1974 §500.050; Ord. No. 29 §5, 11-8-40)

SECTION 500.060: MINOR REPAIRS

"Minor repairs" shall be taken to mean repairs not effecting the structural portion of a building and costing less than five hundred dollars (\$500.00). (CC 1974 §500.060; Ord. No. 29 §6, 11-8-40)

SECTION 500.070: RESTRICTIONS AS TO PERMITS

- A. No building permit shall be issued by the Board unless it be for a residence, church, public library, school, garage or subsidiary building or retaining wall, except as hereinafter provided. A "*residence*" is hereby defined as a building of not over two (2) stories in height to be occupied in its entirety by a single family. A "*story*" shall mean that portion of a building included between the surface of a floor and the ceiling next above it. Not more than one (1) residence shall be erected on any one (1) lot.
- B. Garages and subsidiary buildings may be of wood construction and are to be used by the occupant of the house upon lot where garage or subsidiary building is to be erected. A "*garage*" is hereby defined as a building to be used only for the storing of not more than three (3) automobiles. A "*subsidiary building*" is hereby defined as a building not larger than twenty (20) feet by twenty (20) feet to be used as a play room, summer house or storage for chattels. (CC 1974 §500.070; Ord. No. 29 §7, 11-8-40)

SECTION 500.080: REQUIREMENTS

- A. No building shall hereafter be erected, altered, enlarged or repaired excepting garages and subsidiary buildings as defined in Section 500.070 hereof, unless it conforms to the following: All materials shall be of such quality for the purpose for which they are used as to insure, in the judgment of the Board, ample safety and security of life, limb and neighboring property. Building materials are to conform to legal, trade and manufacturers' standards, and shall be subject to the approval of the Board, which may require tests to be made by an architect, engineer, builder or owner to determine the strength of the structural materials before or after they are incorporated in a building, and may require certified copies of the results of tests made elsewhere, from the architect, engineer, builder or owner or any other interested party. Any material ordered removed from a building by the Board shall be so done within ten (10) days from the date of written notice, mailed to the owner or agent at the address shown on the application for permit.
- B. In exterior design and the exterior use of materials and workmanship, buildings shall conform with the majority of buildings now in the City. The Board shall be the sole judge as to whether the proposed building complies with the spirit and letter of this Section.
- C. *Definitions.* As used in this Chapter, the following terms shall have these prescribed meanings:

BRICK WALLS: Brick walls shall not be less than nine (9) inches thick and shall be bonded and solidly built. Every seventh (7th) course at least shall be of a bonding course of alternate headers and stretchers with full length headers and stretchers with full length headers

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extending into the backing. Walls faced with brick and backed with hollow tile or cinder block shall not be less than nine (9) inches thick, shall be bonded the same as brick walls and in addition shall have not less than three (3) courses of solid brick, full thickness of the wall at the top under wall plate. Exterior facing to be of new brick only and unpainted.

COLUMNS, BEAMS OR GIRDERS: Columns, beams or girders supporting floor joists shall be of structural steel; one (1) story six (6) inch I beams and two (2) story seven (7) inch or eight (8) inch I beams; standard bearing plates shall be placed under the end of all beams bearing on masonry walls.

EXTERIOR MASONRY WALLS:

1. Wherever walls are faced with stone ashlar, the ashlar shall not be less than three (3) inches thick, and the combined thickness of ashlar facing and backing shall not be less than eight (8) inches thick. The backing may be of solid brick or a combination of brick and hard tile. The stone ashlar facing shall be substantially bonded or anchored at least every two (2) feet in height and four (4) feet in length.
2. Mortar for masonry walls above foundations shall be at least cement and lime mortar, and in the proportion of one (1) part Portland cement to three (3) parts sand mixed with one (1) part hydrated lime to three (3) parts sand.

FOOTINGS:

1. Footings under foundation walls shall be of concrete and have a minimum depth of eight (8) inches and a minimum width of not less than twice the thickness of the wall which it supports. Footings under columns or piers shall be not less than twelve (12) inches thick nor project less than ten (10) inches in any direction from column or pier.
2. Concrete for footings shall consist of one (1) part by volume, of Portland cement to three (3) parts clean, sharp, washed river sand, to five (5) parts clean gravel or crushed limestone.

FOUNDATION WALLS:

1. Foundation walls may be of concrete, with a thickness not less than eight (8) inches, except foundation walls for garages and subsidiary buildings, which may be six (6) inches thick, mixed in the proportion of 1:3:5, same as specified for footings.
2. Rubble stone walls minimum thickness of fifteen (15) inches, to be of local limestone laid on its natural bed, bonded by having one (1) full length header extending through the wall at least every three (3) feet in height and four (4) feet in length. Mortar shall be cement mortar, at least one (1) part Portland cement to four (4) parts sand.
3. Concrete block walls shall not be less than eight (8) inches thick, and laid up in cement

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mortar, cement mortar being one (1) part Portland cement to three (3) parts sand.

4. Under no circumstances, shall the thickness of foundation walls be less than the thickness of walls next above, except where wood or channel iron and metal lath are used to increase the thickness of the wall. All other material such as cinder block, gyp tile, etc., used for furring the walls will be considered as part of the wall.

ROOFING: Shall be of some material which is not combustible and fire retarding.

STUCCO: Wherever stucco is used to cover the exterior of a building it must be applied on brick or hollow tile walls, except in panels or gables where it may be applied over frame construction, provided that the wood framework is covered with metal lath to receive the stucco. Stucco may be used only in decorative scheme and not as exterior cover for entire building.

TERMITE CONTROL:

1. All debris, such as paper, wood and other fibrous material shall be removed before back filling around foundation walls.
2. All wood forms, braces, etc., shall be removed and under no circumstances covered by earth or concrete.
3. Where wood jambs are set before the basement floor has been poured, there shall not be less than three (3) inches of solid concrete between the earth and the under side of the jamb. The same applies to wood basement stairs where the heel of the carriage bears on the basement floor.
4. All woodwork in basement below grade shall be secured to masonry walls by bolts set in the wall, wood nailing blocks will not be permitted. All joints, cracks, crevices, etc., in the wall shall be carefully sealed with a rich cement mortar before the woodwork is set.
5. The top of all masonry foundation walls, under floor joists shall be completely covered with cement grout at least one (1) inch thick, composed of one (1) part Portland cement to three (3) parts sand.
6. Wherever wood porches are supported upon wood columns, the wood columns shall be set upon concrete piers, projecting at least four (4) inches above grade, and the first (1st) riser and carriage or wood steps shall rest on concrete.
7. Care shall be taken to prevent wood in all cases from coming into direct contact with the earth.

WOOD CONSTRUCTION:

1. First (1st) floor joists shall not be less than two (2) inches by ten (10) inches spaced

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sixteen (16) inches c.c. except on short spans and shall be cross-bridged at least once each span. Floor joists shall bear not less than four (4) inches on outside walls. The joists shall be covered with seven-eighths (7/8) inch sub-floor over which shall be laid the finish floor.

2. Woodframing in chimney will not be permitted; all wood members shall be at least nine (9) inches from the flue lining.
3. Ceiling joists shall be at least two (2) inches by six (6) inches spaced sixteen (16) inches c.c. and lapped over partitions projecting at least two (2) inches each side of plate and shall be cross-bridged at least once each span. Where attic is to be used for storage, etc., joists to be at least two (2) inches by eight (8) inches, spaced and cross-bridged as before stated.
4. Wood studs shall be spaced not less than sixteen (16) inches c.c. and shall be braced at least once in height with the plate doubled on all bearing partitions.
5. Roof rafters shall not be less than two (2) inches by six (6) inches spaced not more than sixteen (16) inches c.c. with the heel of the rafters bearing not less than three (3) inches on the wall plate, each rafter being securely spiked to the plate. The wall plate shall be at least two (2) inches by six (6) inches, anchored to the wall every five (5) feet with one-half (½) inch plate anchor eighteen (18) inches long with T heads.
6. Every other rafter shall be securely spiked to the ceiling joist or may be secured by two (2) inches by four (4) inches collar beams spiked to every other set of rafters. Collar beams shall be at least four (4) feet below the ridge or the ridge may be supported by two (2) inch by four (4) inch struts spaced not more than six (6) feet c.d. (CC 1974 §500.080; Ord. No. 29 §8, 11-8-40)

SECTION 500.090: RESTRICTIONS

- A. The restrictions filed in the records of the Recorder of Deeds of St. Louis County, Missouri, as pertain to the Subdivision of Velda City, are hereby made a part of this Chapter, except where they may conflict with this Chapter in which event the conflicting portions of such records restrictions are hereby declared to be null and void.
- B. The Board of Aldermen may, when not in violation of any restrictions of record, issue permits for the erection of single or double flats, apartments, duplexes and similar dwellings, and commercial establishments in such districts within the limits of the City which have similar character of construction and will not be detrimental to the neighborhood. Provided however, no permit shall be issued for the erection of any building for manufacturing, processing, packing plant or slaughter house. (CC 1974 §500.090; Ord. No. 29 §9, 11-8-40)

SECTION 500.100: SIDEWALKS AND STREETS

- A. No sidewalks or streets shall be constructed within the City by any person, firm or corporation without first obtaining a permit authorizing the same from the Board of Aldermen. The cost and regulations governing such permits and those who obtain such permits shall be governed by the provisions of this Chapter as pertaining to buildings or other structures.
- B. All sidewalk construction shall be of a minimum width of three (3) feet six (6) inches and a thickness of not less than four (4) inches and a mixture of one (1) part of cement to two (2) parts of sand and four (4) parts of gravel, and shall conform to the sidewalks adjacent, or in adjacent blocks, as to the distance from the curb, and finished grade of sidewalk shall be one (1) inch above curb.
- C. All street construction shall conform in every respect as to width and type of construction, to the streets already made within the City and a true copy of the plans and specifications for such street shall be filed with the Board of Aldermen upon the application for a permit in accordance with the terms of this Chapter as pertaining to other buildings or structures. (CC 1974 §500.100; Ord. No. 29 §10, 11-8-40)

SECTION 500.110: LIGHT STANDARDS

No person, firm or corporation shall construct or erect any light standards or lampposts of any kind, within the City, without first obtaining a permit authorizing the same from the Board of Aldermen. The cost and regulations governing such permits and those who obtain such permits shall be governed by the provisions of this Chapter as pertaining to buildings or other structures. The construction or erection of such light standards shall conform as to style and type, to the light standards already within the City. (CC 1974 §500.110; Ord. No. 29 §11, 11-8-40)

SECTION 500.120: BUILDING COMMISSIONER

- A. The Board of Aldermen shall appoint some suitable person as Building Commissioner, who shall hold his/her office until the following April election or until his/her successor is appointed and qualified, unless sooner removed from office by the Board of Aldermen. The Building Commissioner shall receive as full compensation for the performance of his/her duties an annual salary to be determined by the Board of Aldermen from time to time. He/she may also receive as compensation such fees as the Board of Aldermen may deem just to be paid out of the fees paid for inspections and building permits.

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- B. It shall be the duty of the Building Commissioner to inspect or cause to be inspected every building, fence wall, retaining wall or other structure which may be in the course of erection, construction, enlargement, alteration, repair, wrecking or removal in Velda City. He/she shall have charge of the condemnation of all unsafe buildings, retaining walls, or other structures, and the prevention of the use of such buildings while in an unsafe condition. He/she shall have the authority to enter all such buildings or structures as aforesaid at all reasonable hours in order to discover if the provisions governing buildings, plumbing, electrical work, construction, etc., are being complied with.
- C. It shall be the duty of the Building Commissioner to order erection, construction, enlargement, alteration, repair, wrecking or removal, stopped; in the event that he/she finds that the provisions of this City are not being complied with and he/she shall condemn and order the evacuation of all buildings or structures considered in an unsafe condition. Every person, firm or corporation shall abide by the orders of the Building Commissioner but may appeal from such orders to the Board of Aldermen in the event they believe such orders to be unjust.
- D. The fee for inspections by the Building Commissioner, other than pursuant to an application for a demolition permit, shall be two hundred dollars (\$200.00) for a house inspection and one hundred twenty-five dollars (\$125.00) for an apartment inspection and shall be paid on demand. Sixty dollars (\$60.00) shall be charged for each reinspection of a property. Twenty-five dollars (\$25.00) shall be charged for each inspection needed for a work/building permit.
- E. The fee for inspections pursuant to an application for a demolition permit shall be one hundred twenty-five dollars (\$125.00) for each residential property inspection and one hundred seventy-five dollars (\$175.00) for each commercial property inspection and shall be paid on demand. In addition, all applicants for a demolition permit shall post a five hundred dollar (\$500.00) bond, which will be refunded upon satisfactory completion of the demolition.
- F. It shall be the duty of the Building Commissioner to evaluate and update the "Schedule of Fees" for the City of Velda City. Any and all changes must have a final approval from the Mayor and Board of Aldermen. (CC 1974 §500.120; Ord. No. 29 §12, 11-8-40; Ord. No. 516 §1, 10-14-98; Ord. No. 584 §1, 8-10-05; ord. No. 644 §2, 3-14-12; Ord. No. 644 §2, 3-14-12)

SECTION 500.130: PENALTIES

Any person, firm or corporation or the agent thereof who shall violate or permit to be violated any provision of this Chapter, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00), and each day that a violation is permitted to continue shall constitute a separate offense. (CC

SECTION 500.140: POWER TO MODIFY APPLICATION

- A. The Board of Aldermen shall have the power, by a majority vote to vary or modify the application of any of the regulations or provisions of this Chapter.
- B. This Chapter shall not be construed so as to interfere with the use of any buildings or structure or land existing on November 8, 1940. (CC 1974 §500.140; Ord. No. 29 §14, 11-8-40)

ARTICLE II. RESERVED

Editor's Note--Ord. no. 499 enacted December 10, 1997, adopted certain St. Louis County Building Codes (see Chapter 505). The editors have determined articles II and III to be superseded thereby. Former articles II and III hereof derived from ord. no. 418 §1, 1-13-89; ord. no. 436 §1, 12-12-90; ord. no. 461 §1, 2-14-94. Subsequently ord. no. 523 has been inserted in article III as section 500.170.

SECTION 500.150--500.160: RESERVED

ARTICLE III. MISCELLANEOUS PROVISIONS

SECTION 500.170: FEE FOR REPAIR OF CERTAIN LATERAL SEWER SERVICE LINES

A maximum charge of seven dollars (\$7.00) shall be assessed quarterly on all residential property having six (6) or less dwelling units to provide funds to pay the cost of certain repairs of defective lateral sewer service lines of those dwelling units. (Ord. No. 523 §1, 1-13-99)

ARTICLE IV. BUILDING INSPECTOR

SECTION 500.180: BUILDING INSPECTOR

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- A. There is reestablished the position of Building Inspector of Velda City. The duties of the Building Inspector shall be to enforce all Building Codes, Minimum Housing Code, BOCA Code, and Occupancy Code as they presently exist and as they may hereafter be amended.
- B. The Building Inspector shall be appointed by the Mayor with the consent of a majority of Board of Aldermen. (Ord. No. 369 §§2--3, 7-13-83)

CHAPTER 505: COUNTY CODES

Editor's Note--Ord. no. 621 §§1--3, adopted October 14, 2009, repealed ch. 505 "county codes" and enacted new provisions set out herein. Former ch. 505 derived from ord. no. 280 §§1--3, 9-8-77; ord. no. 329 §§1--3, 11-8-79; ord. no. 471 §§2--3, 4-12-95; ord. no. 499, 12-10-97; ord. no. 517, 11-16-98; ord. no. 525, 3-10-99; ord. no. 541, 8-9-00; ord. no. 545, 4-11-01; ord. no. 569 §1, 2-11-04; ord. no. 585 §1, 10-12-05.

SECTION 505.010: ADOPTION OF ST. LOUIS COUNTY CODES

The Saint Louis County Construction and Property Codes, as amended by the County of Saint Louis, Missouri through date of last amendatory ordinances:

1. The 2009 edition of the International Code Council (ICC) Building Code as adopted by St. Louis County in County Ordinance 24,444 and approved November 1, 2010, one (1) copy which is on file in the office of the City Clerk, is hereby adopted as the City of Velda City Building Code, as if fully set out herein.
2. The 2009 edition of the ICC Existing Building Code as adopted by St. Louis County in County Ordinance 24,444 and approved November 1, 2010, one (1) copy which is on file in the office of the City Clerk, is hereby adopted as the City of Velda City Existing Building Code, as if fully set out herein.
3. The 2009 edition of the ICC Residential Code as adopted by St. Louis County in County Ordinance 24,427 and approved November 1, 2010, one (1) copy which is on file in the office of the City Clerk, is hereby adopted as the City of Velda City Residential Code, as if fully set out herein.
4. The 2009 edition of the ICC Mechanical Code as adopted by St. Louis County in County Ordinance 24,438 and approved November 1, 2010, one (1) copy which is on file in the office of the City Clerk, is hereby adopted as the City of Velda City Mechanical Code, as if fully set out herein.

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5. The 2009 edition of the ICC Property Maintenance Code as adopted by St. Louis County in County Ordinance 24,440 and approved November 1, 2010, one (1) copy which is on file in the office of the City Clerk, is hereby adopted as the Property Maintenance Code of the City of Velda City, Missouri, as if fully set out herein.
6. The 2009 edition of the ICC Plumbing Code as adopted by St. Louis County in County Ordinance 24,441 and approved November 1, 2010, one (1) copy which is on file in the office of the City Clerk, is hereby adopted as the City of Velda City Plumbing Code, as if fully set out herein.
7. The 2008 edition of the National Electrical Code as adopted by St. Louis County in County Ordinance 24,439 and approved November 1, 2010, one (1) copy which is on file in the office of the City Clerk, is hereby adopted as the City of Velda City Electrical Code, as if fully set out herein.
8. The St. Louis County Explosives Code, as adopted and last amended on September 14, 2004 (County Ordinance 22,015), one (1) copy which is on file in the office of the City Clerk, is hereby adopted as the City of Velda City Explosives Code, as if fully set out herein. (Ord. No. 621 §§1, 3, 10-14-09; Ord. No. 646 §1, 6-4-12)

SECTION 505.020: EXISTING COURT CASES NOT TO BE AFFECTED

Nothing in this Article or in the code hereby adopted shall be construed to affect any suit or proceeding impending in any court or any rights acquired or liability incurred or any cause or causes of action acquired or existing under any act or ordinance hereby repealed as cited in Section 505.030 of this Chapter; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Chapter. (Ord. No. 621 §3, 10-14-09)

SECTION 505.030: INCONSISTENT ORDINANCES REPEALED

All other ordinances or parts of ordinances in conflict herewith are hereby repealed. (Ord. No. 621 §3, 10-14-09)

SECTION 505.040: VIOLATION AND PENALTY

Any person who shall violate a provision of the technical codes adopted in this Chapter and Section 505.010 of this Code, or shall fail to comply with any of the requirements of any of the codes adopted in this Chapter or who shall erect, construct, alter or repair a building or structure in violation of an approved plan of or directive of the Code Official, or of a permit or certificate issued under the provisions of any of the codes adopted in this Chapter, shall be

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guilty of an ordinance violation, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding three (3) months, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense. (Ord. No. 621 §3, 10-14-09; Ord. No. 646 §2, 6-4-12)

CHAPTER 510: RIGHTS-OF-WAY USAGE CODE

Editor's Note--Ord. no. 604 §3, adopted September 12, 2007, repealed ch. 510 "excavation" and enacted new provisions set out herein. Former ch. 510 derived from CC 1974 §§515.010--515.040; ord. no. 150 §§1--4, 12-3-70; ord. no. 463 §1, 12-12-94.

SECTION 510.010: TITLE

This Chapter shall be known and may be cited as the "Rights-Of-Way Usage Code". (Ord. No. 604 §3, 9-12-07)

SECTION 510.020: DEFINITIONS

The following terms shall have the following meanings unless otherwise defined by context:

ADMINISTRATOR: The manager or administrator of the City or such other person designated by the City to hear appeals as provided in Section 510.060(B).

CITY FACILITIES: Any facilities located within the public rights-of-way and owned by the City.

DIRECTOR: The City's Public Works Director or such other person designated to administer and enforce this Chapter.

EMERGENCY RIGHTS-OF-WAY (OR "ROW") WORK: Includes, but is not limited to, ROW work made necessary by exigent circumstances to repair, control, stabilize, rectify or correct an unexpected or unplanned outage, cut, rupture, leak or any other failure of a facility when such failure results or could result in danger to the public or a material delay or hindrance to the provision of service.

FACILITIES: A network or system, or any part thereof, used for providing or delivering a service and consisting of one (1) or more lines, pipes, wires, cables, fibers, conduit facilities, cabinets, poles, vaults, pedestals, boxes, appliances, antennas, transmitters, radios, towers, gates, meters, appurtenances or other equipment.

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PERSON: An individual, partnership, limited liability corporation or partnership, association, joint stock company, trust organization, corporation or other entity or any lawful successor thereto or transferee thereof.

PERSON(S) HAVING FACILITIES WITHIN THE RIGHTS-OF-WAY: Any person having ownership or control of facilities located within the rights-of-way.

RIGHTS-OF-WAY OR ROW: Unless otherwise restricts herein, the surface, the air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, parkway, waterway, public easement or sidewalk in which the City now or hereafter holds any interest which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining facilities. "Rights-of-way" shall not include:

1. City facilities or the City's property other than ROW, such as City-owned or operated buildings, parks or other similar property,
2. Airwaves used for cellular, non-wire telecommunications or broadcast services,
3. Easements obtained by ROW users on private property,
4. Railroad rights-of-way or ground used or acquired for railroads, or
5. Facilities owned and used by the City for the transmission of one (1) or more services. No reference herein to "rights-of-way" shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for the delivery of service.

RIGHTS-OF-WAY (OR "ROW") PERMIT: A permit granted by the City to a ROW user for ROW work.

RIGHTS-OF-WAY (OR "ROW") USER: A person performing ROW work within the rights-of-way. A ROW user shall not include ordinary vehicular or pedestrian use.

RIGHTS-OF-WAY (OR "ROW") WORK: Action by a ROW user to:

1. Install, change, replace, relocate, remove, maintain or repair facilities within the rights-of-way, or
2. To conduct work of any kind within or adjacent to the rights-of-way that result in an excavation, obstruction, disruption, damage or physical invasion or impact of any kind to rights-of-way or the use thereof. The routine inspection of facilities shall not be considered ROW work unless the inspection requires the conduct of any of the activities or actions noted herein.

SERVICE: Providing or delivering an economic good or an article of commerce, including,

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but not limited to, gas, telephone, cable television, Internet, open video systems, video services, alarm systems, steam, electricity, water, telegraph, data transmission, petroleum pipelines, sanitary or stormwater sewerage or any similar or related service, to one (1) or more persons located within or outside of the City by use of facilities located within the rights-of-way.

WITHIN: In, along, under, over or across rights-of-way. (Ord. No. 604 §3, 9-12-07)

SECTION 510.030: RIGHT-OF-WAY ("ROW") PERMITS

A. Application Requirements.

1. Any person desiring to perform ROW work must first apply for and obtain a ROW permit in addition to any other building permit, license, easement, franchise or authorization required by law. In the event of a need for emergency ROW work, the person conducting the work shall as soon as practicable notify the City of the location of the work and shall apply for the required ROW permit as soon as practicable following the commencement of the work, not to exceed the third (3rd) business day thereafter. The Director may design and issue general permits for emergency ROW work for several different locations or throughout the City.
2. An application for a ROW permit shall be submitted to the Director. The Director may design and make available standard forms for such applications, requiring such information as allowed by law and as the Director determines in his or her discretion to be necessary and consistent with the provisions of this Chapter and to accomplish the purposes of this Chapter. Each application shall at minimum contain the following information for the proposed ROW work, unless otherwise waived by the Director:
 - a. The name, address and telephone number of a representative whom the City may notify or contact at any time (i.e., twenty-four (24) hours per day seven (7) days per week) concerning the work;
 - b. If different from the applicant, the name, address and telephone number of the person on whose behalf the proposed work is to be performed;
 - c. A description of the proposed work, including a conceptual master plan and an engineering site plan or other technical drawing or depiction showing the nature, dimensions, location and description of the applicant's proposed work or facilities, their proximity to other facilities that may be affected by the proposed work and the number of street crossings and their locations and dimensions, if applicable;
 - d. Projected commencement and termination dates and anticipated duration of the work or, if such dates are unknown, a representation that the applicant shall provide the

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Director with reasonable advance notice of such dates once they are determined;

- e. Copies of any required certificates of insurance or performance and maintenance bonds.
3. The information required by the application may be submitted in the form maintained by the applicant, provided it is responsive to the application's requirements and the applicant shall be allowed a reasonable amount of time to complete the application based on the amount of data or information requested or required.
4. Each such application shall be accompanied by the following payments:
 - a. An application fee approved by the City to cover the cost of processing the application;
 - b. Any other amounts due to the City from the applicant, including, but not limited to, prior delinquent fees, costs and any loss, damage or expense suffered by the City because of the applicant's prior work in the rights-of-way or for any emergency actions taken by the City, but the Director may modify this requirement to the extent the Director determines any such fees to be in good faith dispute.
5. Applicants shall participate in any joint planning, construction and advance notification of such work, including coordination and consolidation of any excavation of or disturbance to the rights-of-way, as directed by the Director. When deemed necessary to accomplish the goals of this Section and to the extent permitted by law, the City reserves the right, when feasible and reasonable, to require the sharing of facilities by ROW uses. Applicants shall cooperate with each other and other ROW users and the City for the best, most efficient, least intrusive, most aesthetic and least obtrusive use of the rights-of-way.
6. The Director shall establish procedures allowing applicants to ascertain whether existing capacity may be available from other persons utilizing the rights-of-way along the intended path of any proposed work. The Director shall also maintain indexes of all ROW permits issued, both by the ROW user and by the affected rights-of-way.

B. *Application Review And Determination.*

1. The Director shall promptly review each completed application for a ROW permit and shall grant or deny all such applications as provided herein within thirty-one (31) days of receipt thereof. Unless the application is denied, the Director shall issue a ROW permit upon determining that the applicant:
 - a. Has submitted all necessary information,
 - b. Has paid the appropriate fees, and
 - c. Is in full compliance with this Chapter and all other City ordinances. The Director

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may establish procedures for bulk processing of applications and periodic payment of fees to avoid excessive processing and accounting costs.

2. It is the intention of the City that interference with, damage to, excavation or disruption of or the placement of facilities within the City's rights-of-way should be minimized and limited in scope to the extent allowed by law to achieve the purposes of this Chapter. When reasonable and necessary to accomplish such purposes, the Director may require as alternatives to the proposed ROW work either less disruptive methods or different locations for facilities, provided that any required alternative:
 - a. Shall not increase expenses by more than ten percent (10%) of the applicant's costs for the work as proposed,
 - b. Shall not result in a decline of service quality, and
 - c. Shall be competitively neutral and non-discriminatory.

The Director shall justify to the applicant that the required alternative is reasonable and necessary.

3. Upon receipt of an application, the Director shall determine whether any portion of the rights-of-way will be affected by the proposed work and whether the interference, disruption or placement of facilities will be more than minor in nature. In determining whether the proposed work is more than minor in nature, the Director shall consider the nature and scope of the work, its location and duration and its effect on the rights-of-way, the use thereof and neighboring properties.
 - a. If the applicant can show to the Director's reasonable satisfaction that the work involves no interference, disruption, excavation or damage to or only minor interference with the rights-of-way or that the work does not involve the placement of facilities or involves time-sensitive maintenance, then the Director shall promptly grant the ROW permit.
 - b. If the Director determines that the effect on the rights-of-way will be more than minor in nature and no exemption under the above paragraph (3)(a) or any other provision of this Chapter applies, the Director shall schedule and coordinate the work and grant the ROW permit accordingly. When reasonable and necessary to accomplish the purposes of this Chapter, the Director may postpone issuance of a ROW permit and may give public notice of the application in an attempt to identify whether other person(s) intend to do work in the same area within a reasonable period of time, so that all ROW work in the area can be coordinated. Due regard shall be accorded applicants that are required by any law, rule, regulation, license or franchise to provide service to the area defined in the application. The Director shall not impose any coordination or scheduling requirements that prevent or unreasonably delay an

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applicant's access to the ROW or that create a barrier to entry.

4. Each ROW permit issued by the Director shall include:
 - a. Projected commencement and termination dates or, if such dates are unknown at the time the permit is issued, a provision requiring the ROW user to provide the Director with reasonable advance notice of such dates once they are determined;
 - b. Length of affected rights-of-way, number of road crossings and identification and description of any pavement or curb cuts included in the work;
 - c. Information regarding scheduling and coordination of work, if necessary;
 - d. The location of any of the applicant's facilities, both those proposed and existing, and the location of any known facilities owned by other person that may be affected by the proposed work;
 - e. An acknowledgment and representation by the applicant to comply with the terms and conditions of the ROW permit and this Chapter; and
 - f. Such conditions and requirements as are deemed reasonably necessary by the Director to protect structures and other facilities in the rights-of-way from damage, to restore such rights-of-way and any structures or facilities, to ensure the reasonable continuity and sight lines of pedestrian and vehicular traffic and to protect property values, the aesthetics of adjoining properties and neighborhoods and the public health, safety and welfare.
5. The Director may deny an application, if denial is deemed to be in the public interest, for the following reasons:
 - a. Delinquent fees, costs or expenses owed by the applicant;
 - b. Failure to provide information required by the application or this Chapter;
 - c. The applicant being in violation of the provisions of this Chapter or other pertinent and applicable City ordinances;
 - d. Failure to return the ROW to its previous condition under previously issued ROW permits or after prior excavations by the applicant;
 - e. For reasons of environmental, historic or cultural sensitivity as defined by applicable Federal, State or local law;
 - f. For the applicant's refusal to comply with alternative ROW work methods, locations or other reasonable conditions required by the Director; and
 - g. For any other reason to protect the public health, safety and welfare, provided that

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such denial does not fall within the exclusive authority of the Missouri Public Service Commission or interfere with a ROW user's right of eminent domain of private property and, provided further, that such denial is imposed on a competitively neutral and non-discriminatory basis.

C. Permit Revocation And Ordinance Violations.

1. The Director may revoke a ROW permit without fee refund after notice and an opportunity to cure, but only in the event of a substantial breach of the terms and conditions of the permit or this Chapter. Prior to revocation the Director shall provide written notice to the ROW user identifying any substantial breach and allowing a reasonable period of time not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety. The cure period shall be extended by the Director on good cause shown by the ROW user. A substantial breach includes, but is not limited to, the following:
 - a. A material violation of a provision of the ROW permit or this Chapter;
 - b. An evasion or attempt to evade any material provision of the ROW permit or this Chapter or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its residents;
 - c. A material misrepresentation of fact in the ROW permit application;
 - d. A failure to complete ROW work by the date specified in the ROW permit, unless an extension is obtained or unless the failure to complete the work is due to reasons beyond the ROW user's control; and
 - e. A failure to correct, upon reasonable notice and opportunity to cure as specified by the Director, work that does not conform to applicable national safety ordinances, industry construction standards, this Chapter or any other applicable ordinances, provided that City standards are no more stringent than those of a national safety ordinance.
2. Any breach of the terms and conditions of a ROW permit shall also be deemed a violation of this Chapter and in lieu of revocation the Director may initiate prosecution of the ROW user for such violation. (Ord. No. 604 §3, 9-12-07)

SECTION 510.040: WORK IN THE RIGHTS-OF-WAY

A. Jurisdiction, Inspection And Stop Work Orders.

1. All facilities and ROW work shall be subject to inspection by the City and the supervision of all Federal, State and local authorities having jurisdiction in such matters

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to ensure compliance with all applicable laws, ordinances, departmental rules and regulations and the ROW permit.

2. The Director shall have full access to all portions of the ROW work and may issue stop work orders and corrective orders to prevent unauthorized work or substandard work as established in Subsection (G) hereof. Such orders:
 - a. May be delivered personally or be certified mail to the address(es) listed on the application for the ROW permit or the person in charge of the construction site at the time of delivery;
 - b. Shall state that substandard work or work not authorized by the ROW permit is being carried out, summarize the substandard or unauthorized work and provide a period of not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety; and
 - c. May be enforced by equitable action in the Circuit Court of St. Louis County, Missouri, and in such case the person responsible for the substandard or unauthorized work shall be liable for all costs and expenses incurred by the City in enforcing such orders, including reasonable attorney's fees, in addition to any and all penalties established in this Chapter.

B. Underground Facilities.

1. In conjunction with the City's long-standing policy favoring underground construction, no person may erect, construct or install new poles or other facilities above the surface of the rights-of-way without the written permission of the City, unless the City's authority has been pre-empted by State or Federal law. Such permission may be granted through a ROW permit when other similar facilities exist above ground or when conditions are such that underground construction is impossible, impractical or economically feasible as determined by the City and when in the City's judgment the above ground construction has minimal aesthetic impact on the area where the construction is proposed.
2. During installation of facilities and to the extent authorized by law, existing underground conduits shall be used whenever feasible and permitted by the owner thereof.
3. In the case of new construction or property development, the developer or property owner shall give reasonable written notice, to other potential ROW users as directed by the City, of the particular date on which open trenching will be available for installation of facilities. Costs of trenching and easements required to bring facilities within the development shall be borne by the developer or property owner; except that if the facilities are not installed within five (5) working days of the date the trenches are available as designated in the notice given by the developer or property owner, then once the trenches are thereafter closed, the cost of new trenching shall be borne by the person

installing the facilities.

C. Above Ground Facilities.

1. The Director may designate certain locations or facilities in the ROW to be excluded from use by the applicant for its facilities including, but not limited to:
 - a. Ornamental or similar specially designed street lights,
 - b. Designated historic areas,
 - c. Facilities, equipment, structures or locations that do not have electrical service adequate or appropriate for the proposed facilities or cannot safely bear the weight or wind loading thereof,
 - d. Facilities, equipment, structures or locations that in the reasonable judgment of the Director are incompatible with the proposed facilities or would be rendered unsafe or unstable by the installation, and
 - e. Facilities, equipment, structures or locations that have been designated or planned for other use or are not otherwise available for use by the applicant due to engineering, technological, proprietary, legal or other limitations or restrictions.
2. Above ground facilities shall be a neutral color and shall not be bright, reflective or metallic. Black, gray and tan shall be considered neutral colors, as shall any color that blends with the surrounding dominant color and helps to camouflage the facilities. Facilities shall be located in such a manner as to reduce or eliminate their visibility. A sight-proof landscape screen may be required for any authorized above ground facilities taller than three (3) feet in height or covering in excess of four (4) square feet in size. Such screening shall be sufficient to reasonably conceal the facility. A landscape plan identifying the size and species of landscaping materials shall be approved by the Director prior to installation of any facility requiring landscape screening. The person having facilities within the ROW shall be responsible for the installation, repair or replacement of screening materials. Alternative screening or concealment may be approved by the Director to the extent it meets or exceeds the purposes of these requirements.
3. Above ground facilities shall be constructed and maintained in such a manner so as not to permit any unnecessary or intrusive noise and shall comply with all other applicable regulations and standards established by the City or State or Federal law.
4. If the application of this Subsection excludes locations for above ground facilities to the extent that the exclusion conflicts with the reasonable requirements of the applicant, the Director shall cooperate in good faith with the applicant to attempt to find suitable alternatives, but such alternatives may exceed the cost increase limitation established by Section 510.030(B)(2) and the City shall not be required to incur any financial cost or to

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acquire new locations for the applicant.

D. Relocation Of Equipment And Facilities.

1. In the event of an emergency or where construction equipment or facilities create or are contributing to an imminent danger to health, safety or property, the City may, to the extent allowed by law, remove, re-lay or relocate such construction equipment or the pertinent parts of such facilities without charge to the City for such action or for restoration or repair. The City shall attempt to notify the person having facilities within the ROW prior to taking such action, but the inability to do so shall not prevent same. Thereafter, the City shall notify the person having facilities within the ROW as soon as practicable.
2. At the City's direction, all facilities shall be moved underground and the cost shall be solely the obligation of the person having facilities within the ROW (or as otherwise allowed or required by law).
3. At the City's direction, a person having facilities within the ROW shall protect, support, disconnect, relocate or remove facilities, at its own cost and expense, when necessary to accommodate the construction, improvement, expansion, relocation or maintenance of streets or other public works or to protect the ROW or the public health, safety or welfare.
4. A person having facilities within the ROW shall, on the reasonable request of any person and after reasonable advance written notice, protect, support, disconnect, relocate or remove facilities to accommodate such person and the actual cost, reasonably incurred, of such actions shall be paid by the person requesting such action. The person having facilities within the ROW taking such action may require such payment in advance.
5. Rather than relocate facilities as requested or directed, a ROW user may abandon the facilities if approved by the City as provided in Subsection (F) of this Section.
6. No action hereunder shall be deemed a taking of property and no person shall be entitled to any compensation therefor. No location of any facilities within the rights-of-way shall be a vested interest.

E. Property Repair And Alterations.

1. During any ROW work, the person doing the work shall protect from damage any and all existing structures and property belonging to the City and any other person. Any and all rights-of-way, public property or private property disturbed or damaged during the work shall be repaired or replaced by the person doing the work or the person on whose behalf the work is being done and such person shall immediately notify the owner of the fact of any damaged property. Such repair or replacement shall be completed within a reasonable time specified by the Director and to the Director's satisfaction.

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2. Any alteration to the existing water mains, sewerage or drainage system or to any City, State or other public structures or facilities in the rights-of-way required on account of the construction, installation, repair or maintenance of facilities within the rights-of-way shall be made at the sole cost and expense of the owner of such facilities.

F. *Removal, Abandonment, Transfer And Relocation Of Facilities.*

1. If a person having facilities within the ROW:
 - a. Installs the facilities within the ROW without having complied with the requirements of this Chapter, or
 - b. Abandons the facilities, the City may require the removal of the facilities, remove the facilities at the expense of the person having facilities within the ROW or require the transfer of the facilities as provided herein.
2. If the City requires removal of the facilities, the person shall obtain a ROW permit and shall abide by all requirements of this Chapter. The liability, indemnity, insurance and bonding requirements required herein shall continue in full force and effect during and after the period of removal and restoration and until full compliance by the person with the terms and conditions of the ROW permit and the requirements of this Chapter.
3. If the person fails to remove the facilities after having been directed to do so, the City may, to the extent permitted by law, have the removal done at the person's expense. Alternatively, the City may permit the abandonment, without removal, of the facilities if the Director determines that abandonment is not likely to prevent or significantly impair the future use, repair, excavation, maintenance or construction of the ROW.
4. If the person fails to remove the facilities after having been directed to do so, the City may, to the extent permitted by law, decide that the ownership of the facilities should be transferred to the City or to such person as directed by the City. In either case the owner of the facilities shall submit a written instrument, satisfactory in form to City, transferring to the City, or to such person as directed by the City, ownership of the facilities. The City may sell, assign or transfer all or part of the facilities so transferred.
5. The City shall not remove or seek to possess or transfer the facilities until thirty (30) days have passed following written notice by the Director to the person having facilities within the ROW of the City's intent to so act. The Director may choose not to act on good cause shown by the person having facilities within the ROW.

G. *Standards For ROW Work.*

1. Except for emergency ROW work as provided in Section 510.030(A)(1), ROW work shall be performed only upon issuance and in accordance with the requirements of a

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ROW permit. At all times during the work, ROW permits shall be conspicuously displayed at the work site and shall be available for inspection by the Director.

2. If at any time it appears that the duration or scope of the ROW work is or will become materially different from that allowed by the ROW permit, the ROW user shall inform the Director. The Director may issue a waiver, an extension or a revised ROW permit or require that the ROW user reapply for a ROW permit in accordance with all requirements of this Chapter.
3. ROW users shall not open or encumber more of the rights-of-way than is reasonably necessary to complete the ROW work in the most expeditious manner or allow excavations to remain open longer than is necessary to complete the work.
4. All ROW work that affects vehicular or pedestrian traffic shall be properly signed, barricaded and otherwise protected at the ROW user's expense. The ROW user shall be responsible for providing adequate traffic control to the area surrounding the work as determined by the Director.
5. The ROW user shall perform the ROW work at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood as permitted by the Director. Unless otherwise provided by the Director in the permit, non-emergency ROW work on arterial and collector streets may not be accomplished during the hours of 7:00 A.M. to 8:30 A.M. and 4:00 P.M. to 6:00 P.M. in order to minimize disruption of traffic flow.
6. The ROW user shall notify the City no less than three (3) working days in advance of any ROW work that would require any street closure or would reduce traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. Except in the event of emergency ROW work, no such closure shall take place without notice and prior authorization from the City.
7. All ROW work shall be in accordance with all applicable Sections of the Occupational Safety and Health Act of 1970, the National Electrical Safety Code and other Federal, State or local laws and regulations that may apply, including, without limitation, local health, safety, construction and zoning ordinances and laws and accepted industry practices, all as hereafter may be amended or adopted. In the event of a conflict among ordinances and standards, the most stringent ordinance or standard shall apply (except insofar as that ordinance or standard, if followed, would result in facilities that could not meet requirements of Federal, State or local law).
8. All facilities shall be installed and located to cause minimum interference with the rights and convenience of property owners, other ROW users and the City. Facilities shall not be placed where they will disrupt or interfere with other facilities or public improvements or obstruct or hinder in any manner the various utilities serving the residents and

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businesses in the City or public improvements.

- a. All facilities shall be of good and durable quality.
 - b. All ROW work shall be conducted in accordance with good engineering practices, performed by experienced and properly trained personnel so as not to endanger any person or property or to unreasonably interfere in any manner with the rights-of-ways or legal rights of any property owner, including the City, or unnecessarily hinder or obstruct pedestrian or vehicular traffic.
9. All safety practices required by law shall be used during ROW work, including commonly accepted methods and devices to prevent failures and accidents that are likely to cause damage, injury or nuisance to the public.
10. Any contractor or subcontractor of a ROW user must be properly licensed under laws of the State and all applicable local ordinances and the contractor or subcontractor shall have the same obligations with respect to its work as a ROW user would have pursuant to this Chapter. A ROW user:
- a. Must ensure that contractors, subcontractors and all employees performing ROW work are trained and experienced,
 - b. Shall be responsible for ensuring that all work is performed consistent with the ROW permit and applicable law,
 - c. Shall be fully responsible for all acts or omissions of contractors or subcontractors,
 - d. Shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor, and
 - e. Shall implement a quality control program to ensure that the work is properly performed.
11. A ROW user shall not place or cause to be placed any sort of signs, advertisements or other extraneous markings on the facilities or in the ROW, whether relating to the ROW user or any other person, except such necessary minimal markings approved by the City as necessary to identify the facilities for service, repair, maintenance or emergency purposes or as may be otherwise required to be affixed by applicable law or regulation.
12. Unless otherwise approved in writing by the City, a ROW user shall not remove, cut or damage any trees or their roots within the ROW.
13. Street crossings will be bored at the direction of the Director.

H. *Restoring And Maintaining The Rights-Of-Way.*

1. To complete any ROW work, the ROW user shall restore the ROW and surrounding

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areas, including, but not limited to, any pavement, foundation, concrete slabs or curbs, screening, landscaping or vegetation, and shall comply with other reasonable conditions of the Director. Restoration of the ROW shall be completed within the dates specified in the ROW permit unless the Director issues a waiver, extension or a new or revised ROW permit.

2. It shall be the duty of any person making an excavation in the ROW to backfill such excavations and restore the surface in accordance with the City's minimum prescribed standards for such surfaces or the following standards as determined by the Director.
 - a. If the excavations are made in the improved portion of the ROW, twelve (12) inches of granular backfill will be placed over exposed facilities and controlled low strength material (CLSM) will fill the hole within eight (8) inches of the finished surface for concrete pavements. There will be a plastic membrane placed between the rock base and the CLSM to prevent the material from bleeding into the rock base. The remaining eight (8) inches will be restored by placing a twenty-eight (28) day minimum strength, four thousand five hundred (4,500) psi concrete mix.
 - b. If the excavations are made in the improved portion of an asphalt or combination street, twelve (12) inches of granular backfill will be placed over exposed facilities and CLSM will fill the hole within nine (9) inches of the finished surface. There will be a plastic membrane placed between the rock base and the CLSM to prevent the material from bleeding into the rock base. The remaining nine (9) inches will be restored by placing a six (6) inch thick, twenty-eight (28) day minimum strength, four thousand five hundred (4,500) psi concrete mix under a three (3) inch asphalt concrete lift of type C mix to meet existing grades.
 - c. Construction of asphalt driveway entrances in residential ROW will be constructed of six (6) inches of compacted rock base and three (3) inches of type C asphalt concrete mix. Construction of asphalt driveway entrances in commercial ROW will be constructed of four (4) inches of compacted rock base, seven and one-half (7.5) inches of type X and three (3) inches of type C asphalt concrete mix. Concrete driveway approaches will consist of a four (4) inch compacted rock base and be a minimum of six (6) inches thick in residential ROW and eight (8) inches thick in commercial ROW.
3. If a ROW user fails to restore the ROW within the date specified either by the ROW permit or any extension thereof as granted by the Director, the City may perform its own restoration. The City may also opt to perform its own restoration regardless of any failure by the ROW user, in which case the ROW permit or any amendment or revision thereto shall note such option. In either event, if the City performs the restoration, the ROW user shall be responsible for reimbursing the City's reasonable actual restoration costs within thirty (30) days of invoice.

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4. Every ROW user to whom a ROW permit has been granted shall guarantee for a period of four (4) years the restoration of the ROW in the area where the ROW user conducted excavation. During this period the ROW user shall, upon notification from the Director, correct all restoration work to the extent necessary as required by the Director. Said work shall be completed within a reasonable time, not to exceed thirty (30) calendar days from receipt of the Director's notice unless otherwise permitted by the Director. If a ROW user fails to restore the ROW within the time specified, the City may perform the work and the ROW user shall be responsible for reimbursing the City's reasonable actual restoration costs within thirty (30) days of invoice. The Director may extend the cure period on good cause shown.
 5. A ROW user shall not be relieved of the obligation to complete the necessary right-of-way restoration and maintenance because of the existence of any performance bond required by this Chapter.
- I. Any person performing ROW work shall provide written notice to all property owners within one hundred eighty-five (185) feet of the site at least forty-eight (48) hours prior to any installation, replacement or expansion of its facilities. Notice shall include a reasonably detailed description of work to be done, the location of work and the time and duration of the work. (Ord. No. 604 §3, 9-12-07)

SECTION 510.050: BONDS -- INSURANCE -- SURETY -- INDEMNIFICATION -- PENALTIES

A. Performance And Maintenance Bonds.

1. Prior to any ROW work a ROW user shall establish in the City's favor a performance and maintenance bond in an amount to be determined by the Director to ensure the restoration of the rights-of-way. The bond shall continue in full force and effect for a period of twenty-four (24) months following completion of the work. The Director shall have the authority to extend the maintenance bond period for up to an additional twenty-four (24) months. The Director may waive this requirement when the work involves no or only minor disruption or damage to the rights-of-way. The Director shall waive this requirement when the ROW user has twenty-five million dollars (\$25,000,000.00) in net assets and does not have a history of non-compliance with State and local regulations.
2. If a ROW user fails to complete the ROW work in a safe, timely and competent manner or if the completed restorative work fails without remediation within the time period for the bond (as determined by the Director), then after notice and a reasonable opportunity to cure, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of

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the ROW user and the cost of completing work within or restoring the rights-of-way, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond. The City may also recover against the bond any amount recoverable against a security fund or letter of credit where such amount exceeds that available under a security fund or letter of credit.

3. Upon completion of ROW work to the satisfaction of the Director and upon lapse of the bond period, including any extension by the Director, the City shall release the bond.
4. The bond shall be issued by a surety with "A" or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition, shall be subject to the approval of the City's attorney and shall contain the following endorsement:

"This bond may not be cancelled or allowed to lapse, until sixty (60) days after receipt by the City, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

5. In lieu of the bond required herein, the ROW user may establish in the City's favor such other security as the Director may determine to be commensurate with the noted bonding requirements including, but not limited to, an annual bond to be maintained in the minimum amount of twenty-five thousand dollars (\$25,000.00).

B. *Insurance.*

1. All ROW users shall maintain, for the duration of any ROW work and, when applicable, for as long as the ROW user has facilities within the rights-of-way, at least the following liability insurance coverage: Workers' Compensation and employer liability insurance to meet all requirements of Missouri law and commercial general liability insurance with respect to the construction, operation and maintenance of the facilities and the conduct of the ROW user's business in the City in the minimum amounts of:
 - a. Two millions dollars (\$2,000,000.00) for property damage resulting from any one (1) accident;
 - b. Five million dollars (\$5,000,000.00) for personal bodily injury or death resulting from any one (1) accident; and
 - c. Two million dollars (\$2,000,000.00) for all other types of liability.

These insurance requirements shall not be construed to limit the ability of any person or to impose any liability on the City or to waive any sovereign immunity.

2. All insurance policies shall be with sureties qualified to do business in the State of Missouri with an "A" or better rating of insurance by Best's Key Rating Guide, Property/Casualty Edition and in a form approved by the City.

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3. All insurance policies shall be available for review by the City, and a ROW user having facilities within the rights-of-way shall keep on file with the City current certificates of insurance.
4. All general liability insurance policies shall name the City, its officers, boards, board members, commissions, commissioners, agents and employees as additional insureds and shall further provide that any cancellation or reduction in coverage shall not be effective unless thirty (30) days' prior written notice thereof has been given to the Director. A ROW user shall not cancel any required insurance policy without submission of proof that it has obtained alternative insurance that complies with this Chapter.
5. The Director may exempt in writing from these insurance requirements any self-insured ROW user, provided that the ROW user demonstrates to the Director's satisfaction that the ROW user's self-insurance plan is commensurate with said requirements and that the ROW user has sufficient resources to meet all potential risks, liabilities and obligations contemplated by the requirements of this Chapter. The Director may require a security fund or letter of credit as a condition to a self-insured' s exemption. The Director shall waive this requirement when the ROW user has twenty-five million dollars (\$25,000,000.00) in net assets and does not have a history of non-compliance with applicable regulatory law.

C. Indemnification.

1. Any ROW user granted a ROW permit and any person having facilities within the rights-of-way, as partial consideration for the privilege granted, shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, board members, commissions, commissioners, agents and employees against any and all claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of:
 - a. Any ROW work including, but not limited to, the construction, maintenance, repair or replacement of the facilities,
 - b. The operation of its facilities,
 - c. Failure to secure consents from landowners, or
 - d. Any actions taken or omissions made by the person pursuant to the authority of this Chapter.
2. The foregoing indemnity provisions include, but are not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding prior to the person assuming such defense. The City shall notify a person of claims and suits within seven (7) business days of its actual knowledge of the existence of such claim, suit

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or proceeding. Once a person assumes such defense, the City may at its option continue to participate in the defense at its own expense.

3. Notwithstanding anything to the contrary contained in this Chapter, the City shall not be so indemnified or reimbursed in relation to any amounts attributable to:
 - a. The City's own negligence, willful misconduct, intentional or criminal acts, or
 - b. The City acting in a proprietary capacity to deliver service(s) within the City.
4. Recovery by the City of any amounts under insurance, a performance bond or otherwise does not limit a person's duty to indemnify the City in any way; nor shall such recovery relieve a person of amounts owed to the City or in any respect prevent the City from exercising any other right or remedy it may have.

D. *Penalties.* Any person violating any provision of this Chapter shall, upon conviction by the City's Municipal Court, be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment. Each day the violation continues may be charged as a separate offense. (Ord. No. 604 §3, 9-12-07)

SECTION 510.060: DISPUTE RESOLUTIONS, APPEALS AND ARBITRATION

- A. The Director shall make a final determination as to any matter concerning the grant, denial or revocation of a ROW permit as provided in this Chapter. On the request of an applicant or a ROW user and within a reasonable period of time, the Director also shall make a final determination as to any other issue relating to the use of the ROW, the imposition of any fee or the application of any provision of this Chapter, provided however, that this review shall not apply to matters being prosecuted in the Municipal Court. Any final determination of the Director shall be subject to review as provided herein.
- B. Any person aggrieved by a final determination of the Director may appeal in writing to the Administrator within five (5) business days thereof. The appeal shall assert specific grounds for review and the Administrator shall render a decision on the appeal within fifteen (15) business days of receipt affirming, reversing or modifying the determination of the Director. The Administrator may extend this time period for the purpose of any investigation or hearing deemed necessary. A decision affirming the Director's determination shall be in writing and supported by findings establishing the reasonableness of the decision.
- C. Any person aggrieved by the final determination of the Administrator may file a petition for review pursuant to Chapter 536, RSMo., as amended, in the Circuit Court of the County of St. Louis. Such petition shall be filed within thirty (30) days after the Administrator's final determination.

D. *Arbitration And Mediation.*

1. On agreement of the parties and in addition to any other remedies, any final decision of the Administrator may be submitted to mediation or binding arbitration.
2. In the event of mediation, the Administrator and the applicant or ROW user shall agree to a mediator. The costs and fees of the mediator shall be borne equally by the parties and each party shall pay its own costs, disbursements and attorney fees.
3. In the event of arbitration, the Administrator and the applicant or ROW user shall agree to a single arbitrator. The costs and fees of the arbitrator shall be borne equally by the parties. If the parties cannot agree on an arbitrator, the matter shall be resolved by a three (3) person arbitration panel consisting of one (1) arbitrator selected by the Administrator, one (1) arbitrator selected by the applicant or ROW user and one (1) person selected by the other two (2) arbitrators, in which case each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third (3rd) arbitrator and of the arbitration. Each party shall also pay its own costs, disbursements and attorney fees. (Ord. No. 604 §3, 9-12-07)

SECTION 510.070: MISCELLANEOUS

- A. After the completion of ROW work the ROW user shall provide to the City as-built drawings, maps or other comparable records as determined by the Director, drawn to scale and certified to the City as reasonably depicting the location of all facilities constructed pursuant to the ROW permit. Such records may be provided to the Director in the form maintained by the ROW user, but when available to the ROW user, shall be submitted in automated formats that are compatible with City systems as determined by the Director or in hard copy otherwise.
- B. Upon failure of a ROW user to commence, pursue or complete any ROW work required by law or by the provisions of this Chapter to be done in any street within the time prescribed and to the reasonable satisfaction of the City, the City may, at its option, after thirty (30) days' notice, cause such work to be done and the ROW user shall pay to the City the cost thereof in the itemized amounts reported by the City to the ROW user within thirty (30) days after receipt of such itemized report.
- C. Upon ten (10) days' written notice and with the supervision of the City or as otherwise provided by law, a ROW user shall have the authority to trim trees that overhang rights-of-way of the City so as to prevent the branches of such trees from coming in contact with its facilities, at its own expense subject to the supervision and direction of the City. Nothing in this paragraph shall authorize the trimming of trees on private property without permission of the property owner. All cut materials shall be properly disposed.

- D. During ROW work by a ROW user the City shall have the right to install and to thereafter maintain, at its own cost in any excavation to or other applicable disturbance of the ROW, any parallel facilities of its own that do not unreasonably interfere with the operations of other facilities.
- E. Nothing in this Chapter shall be in preference or hindrance to the right of the City and any board, authority, commission or public service corporation of the City to use or occupy the rights-of-way or to perform or carry on any public works or public improvements of any description. (Ord. No. 604 §3, 9-12-07)

CHAPTER 515: OCCUPANCY PERMITS

ARTICLE I. GENERAL PROVISIONS

SECTION 515.010: DEFINITION

For the purpose of this Article the term "*family*" as used herein is construed to mean as follows: An individual or married couple and the children thereof, and no more than two (2) other persons related directly to the individual or married couple by blood or marriage, or a group of not more than three (3) persons (including servants) not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit. (CC 1974 §520.010; Ord. No. 141 §2, 7-22-69)

SECTION 515.020: PERMIT REQUIRED

- A. It shall be unlawful for any person, firm or corporation to hereafter occupy, or for any owner or agent thereof, to permit the occupancy or use of any building or part thereof, or annex thereto, for any purpose, until an inspection of said premises be effected by the City Building Commissioner approving the same, and an occupancy permit has been issued by said Building Commissioner.
- B. It shall be unlawful to fail to inform purchasers or renters that an occupancy permit is required by the City before any occupancy takes place. (CC 1974 §520.020; Ord. No. 141 §3, 7-22-69)

SECTION 515.030: APPLICATION FOR PERMIT

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- A. The application for any occupancy permit for a residence or dwelling for family use, shall state the names, dates of birth and relationship of each of the persons who will occupy the premises for which the permit is sought. It shall also reflect the name and address of the owner or owners of the premises, or if unknown to the applicant, the name and address of the owner's agent or representative.
- B. The application for any occupancy permit for any commercial building or structure shall state the precise nature of the enterprise, business, vocation or profession proposed to be conducted; the names of the owner or owners thereof, or if a corporation the names of its officers. (CC 1974 §520.030; Ord. No. 141 §4, 7-22-69)

SECTION 515.040: COMPLIANCE WITH CHAPTER

No person shall occupy or let to another for occupancy any dwelling unit for the purpose of living therein which does not comply with the following:

- 1. Habitable rooms shall have a clear ceiling height of not less than seven (7) feet four (4) inches except that in attics or top half stories the ceiling height shall be not less than seven (7) feet over not less than one-third (1/3) of the area when used for sleeping, study or similar activity. In calculating the floor area of the room areas having a clear ceiling height of five (5) feet or more may be included.
- 2. Abbreviations of symbols in this Section shall be as follows:

DU--Dwelling Unit	DR--Dining Room
LR--Living Room	DA--Dining Area
K--Kitchen	BR--Bedroom
K-et--Kitchenette	NP--Not permitted

Each dwelling unit occupied by four (4) or more occupants shall contain a living room, kitchen, eating space and bedroom with minimum areas and least dimensions as scheduled below:

Minimum Area In Square Feet

<i>Name of Space</i>	<i>1 BR DU</i>	<i>2 BR DU</i>	<i>3 or more BR DU</i>	<i>Least Dimension</i>
LR	140	140	150	10 feet
DR	80	80	100	7 feet 8 inches
K	50	50	60	3 feet
K'et	40	NP	NP	3 feet 4 inches
BR	70	70	70	7 feet
Total BR	100	170	3 BR 240	

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4 BR 340

DU 8 feet

LR--DA	160	160	180
LR--DR	200	200	220
LR--DA--K	210	210	220
K--DA	80	80	100
K--DR	120	120	140
K'et--DA	60	60	80

3. Every room occupied for sleeping purposes by one (1) occupant shall have a minimum floor area of seventy (70) square feet and every room occupied for sleeping purposes for more than one (1) occupant shall have a minimum floor area of at least fifty (50) square feet for each occupant. In any dwelling occupied by four (4) or more occupants no part of the living room, kitchen or eating space may be counted as part of the required space for sleeping purposes.
4. Every room used as a bedroom shall have access to at least one (1) water closet without passing through another room used as a bedroom. (CC 1974 §520.040; Ord. No. 141 §5, 7-22-69)

SECTION 515.050: INSPECTION FOR CONFORMITY

- A. The City Building Commissioner shall make inspections to determine whether dwellings for which occupancy permits are sought within the City conform with the Building Code of the City, St. Louis County and the Normandy Fire Protection District with particular emphasis upon natural lighting, ventilation, toilet and bathroom facilities, garbage and rubbish storage requirements, sanitary facilities, plumbing, electrical wiring and service, and heating facilities. Licensed contractors in the fields of plumbing and electricity, a qualified or licensed roofer and Laclede Gas Company or other appropriate gas utility shall certify in writing that such facilities, utilities and services are in good working order. Such certifications are subject to the approval of the Building Commissioner.
- B. Whenever the Building Commissioner has reasonable cause to believe that a building is being occupied in violation of the provisions of this Chapter he/she shall have the right to inspect said building to determine that said building conforms to the provisions as set out in Subsection (A) herein.
- C. Whenever a person applies for a change or addition to their current occupancy permit the Building Commissioner shall have the right to reinspect the building as provided for above.
- D. Whenever the Building Commissioner determines that there are reasonable grounds to believe that there has been a violation of any provision of this Article, he/she shall give notice of such alleged violation to the person or persons responsible therefor, which shall:

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1. Be in writing.
2. Contain a statement of the reason why it is being violated.
3. Allow a reasonable time to remedy the violation.
4. Such written notice may be served upon the person or persons involved or interested and sent by registered mail to last known address of person seeking occupancy permit and inspection or posted in a conspicuous place in or about the dwelling inspected. (CC 1974 §520.050; Ord. No. 141 §6, 7-22-69; Ord. No. 559 §1, 8-14-02)

SECTION 515.060: UNFIT DWELLINGS

The designation of dwellings or dwelling units as unfit for human habitation and the procedure for such declaration and placarding of such unfit facilities shall be as follows:

1. Any dwelling or dwelling unit which shall be found to have any of the following defects shall be declared unfit for human habitation and shall be so designated and placarded by the Building Commissioner when the responsible person has failed to correct or remedy the defects or condition set forth in a notice issued in accordance with the provisions of this Article.
 - a. One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infected and infested that it creates a serious hazard to the health or safety of the occupants of such unit or of the public.
 - b. One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.
 - c. One which because of its general condition is unsanitary, or otherwise dangerous to the health or safety of the occupants or of the public. (CC 1974 §520.060; Ord. No. 141 §7, 7-22-69)

SECTION 515.070: REINSPECTION BY BUILDING COMMISSIONER

No building, premises or dwelling unit which has been placarded as denying occupancy thereof shall be used for human habitation until reinspected by the Building Commissioner upon application therefor, and notice that defects or conditions have been performed and completed, and the Building Commissioner gives such applicant for occupancy his/her written approval thereof. (CC 1974 §520.070; Ord. No. 141 §8, 7-22-69)

SECTION 515.080: APPEAL OF DECISION

Any person aggrieved by the decision of the Building Commissioner as to defect or defects, conditions, etc., to be corrected before any occupancy permit be issued, may appeal such decision to the Board of Aldermen of the City for final determination. Upon notice of such appeal the Building Commissioner shall forthwith submit to the Board of Aldermen all papers constituting the record upon which the action appealed from is taken. (CC 1974 §520.080; Ord. No. 141 §9, 7-22-69)

SECTION 515.090: INSPECTION FEE

- A. The fee for inspections as required by the Building Commissioner of Velda City shall be one hundred twenty-five dollars (\$125.00) for each apartment inspection and two hundred dollars (\$200.00) for each house inspection. Applicants for occupancy permits are required to obtain the other inspections described in Section 515.050(A) of this Chapter. The inspection includes housing inspection, roof inspection, electrical inspection and the plumbing inspection. For any and each reinspection needed, the fee shall be sixty dollars (\$60.00). The fees shall be paid at the time of application therefore to the City Clerk for credit to the General Revenue Fund of the City.
- B. The fee for occupancy permits shall be ten dollars (\$10.00) for each unit sought to be occupied and shall be paid at the time written application is made therefor to the City Clerk for credit to the General Revenue Fund of the City.
- C. Every room occupied for sleeping purposes by one (1) occupant shall have a minimum floor area of seventy (70) square feet and every room occupied for sleeping purposes for more than one (1) occupant shall have a minimum floor area of at least fifty (50) square feet for each occupant. In any dwelling no part of the living room, kitchen, dining room or eating space may be counted as part of the required space for sleeping purposes. Basements cannot be converted to sleeping rooms or living quarters.
- D. Every room used as a bedroom shall have access to at least one (1) water closet without passing through another room. Due to the construction of some dwellings, this shall be at the discretion of the Board of Aldermen. (CC 1974 §520.090; Ord. No. 141 §10, 7-22-69; Ord. No. 459 §1, 11-10-93; Ord. No. 561 §1, 10-9-02; Ord. No. 584 §2, 8-10-05)

SECTION 515.100: PENALTY

Any person, firm or corporation violating any of the provisions of this Article or knowingly making a false statement in the application for inspections or occupancy permit, or occupies

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any building or part thereof, without first obtaining such inspection and occupancy permit as in this Article provided, shall upon conviction thereof be assessed a fine of not less than five dollars (\$5.00) nor exceeding one hundred dollars (\$100.00). Each day that a premises is occupied within the City without the issuance of an occupancy permit, or without the inspection required thereof, shall be considered a separate violation. (CC 1974 §520.100; Ord. No. 141 §11, 7-22-69)

ARTICLE II. MISCELLANEOUS PROVISIONS

SECTION 515.110: DISCLOSURE OF THE NEED TO OBTAIN AN OCCUPANCY PERMIT REQUIRED

- A. No person, co-partnership, association or corporation, foreign or domestic, shall sell, exchange, rent or lease real estate in Velda City without first advising the potential purchaser and/or lessee of the need to obtain an occupancy permit from Velda City before occupancy of the premises can ensue.
- B. Any person, co-partnership, association or corporation violating the provision of this Section shall, upon conviction thereof, be assessed a fine of not less than five dollars (\$5.00) nor exceeding one hundred dollars (\$100.00) per day. (Ord. No. 422 §§1--2, 9-13-89; Ord. No. 433 §§1--2, 9-12-90)

CHAPTER 520: MINIMUM HOUSING CODE

Cross Reference--As to requirements for bedrooms to have access to water closets without passing through another room, see §515.090(D).

SECTION 520.010: GENERAL PURPOSE

The general purpose of this Chapter is to protect the public health, safety and the general welfare of the people of the municipality. These general objectives include, among others, the following specific purposes:

1. To protect the character and stability of residential property within the municipality.
2. To provide minimum standards for cooking, heating, and sanitary equipment necessary to the health and safety of occupants of buildings.
3. To provide facilities for light and ventilation necessary to health and safety.

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4. To prevent additions or alterations to existing dwellings that would be injurious to the life, health, safety or general welfare of the occupants of such dwellings or neighboring properties.
5. To prevent the overcrowding of dwellings by providing minimum space standards per occupant of each dwelling unit.
6. To provide minimum standards for the maintenance of existing residential buildings, and to thus prohibit the spread of slums and blight.
7. To thus preserve the property value of land and buildings throughout the municipality.
8. To provide mechanisms for the enforcement and administration of the Code to ensure that the above purposes are accomplished. (CC 1974 §525.010; Ord. No. 141B, 1-5-75)

SECTION 520.020: DEFINITIONS

For the purpose of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

ACCESSORY STRUCTURE: A structure subordinate to the main or principal structure, the use of which is customary to the main building.

BASEMENT: Portion of a building which is partly underground, but having at least fifty percent (50%) of its ceiling height above the average grade of the adjoining ground.

BATHROOM: A room affording privacy containing bathing and sanitary facilities provided within each living unit consisting of a water closet, a tub or shower, and a lavatory basin.

CELLAR: Portion of a building which is partly underground, but having less than fifty percent (50%) of its ceiling height above the average grade of the adjoining ground.

CHANGE OF OCCUPANCY: Any circumstances wherein the composition of the residents of a dwelling unit changes either through the sale, lease, rental or other provision for the occupancy of any dwelling unit or by the addition of one (1) or more persons to the number of residents of a dwelling unit, except by birth or legal custody of minors.

CONDITIONAL OCCUPANCY PERMIT: A document which states the names, ages, relationships, and number of occupants of a dwelling unit which does not comply with all of the provisions of this Chapter. It is issued only under specified circumstances listed in Section 520.270 for a limited, specified length of time.

DETERIORATION: The condition of appearance of a building or part thereof, characterized by evidence of physical decay or neglect, excessive use, or lack of maintenance.

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DWELLING: A structure or portion thereof, which is wholly or partly designed for or used for human habitation.

DWELLING UNIT: One (1) or more rooms or any part thereof, in a building usable for occupancy by one (1) family for living purposes and having its own permanently installed cooking and sanitary facilities.

ENFORCEMENT OFFICIAL: The official designated herein or otherwise charged with the responsibilities of administering this Chapter or his/her authorized representatives.

EXTERIOR APPURTENANCES: Objects which are added to a structure for aesthetic or functional purposes. These include, but are not limited to, screens, awnings, trellises, television antennae, storm windows and storm doors.

EXTERMINATION: The control and elimination of insects, rodents, or other pests by eliminating their harborage places, by removing or making inaccessible materials, that may serve as their food, by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the Health Commissioner of this municipality.

FAMILY: An individual or married couple and the children thereof and no more than two (2) other persons related directly to the individual or married couple by blood or marriage and not more than one (1) unrelated person (excluding servants) or a group of not more than four (4) persons not related by blood or marriage living together as a single housekeeping unit in a dwelling unit.

FENCE: An independent structure forming a barrier at grade between lots, between a lot and a street or an alley, or between portions of a lot or lots. A barrier includes a wall or latticework screen but excludes a hedge or natural growth, or a barrier less than eighteen (18) inches in height which is used to protect plant growth.

GARBAGE: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

GARDEN LEVEL: Portion of a building which is partly underground, but having at least sixty percent (60%) of its ceiling height above the average grade of the adjoining ground.

GUTTER: A trough under an eave to carry off water.

HABITABLE BUILDING: Any structure or part thereof that shall be used as a home or place of abode by one (1) or more persons.

HABITABLE ROOM: Every room in any building in which persons sleep, eat, or carry on their usual domestic or social vocations or avocations. It shall not include private laundries, bathrooms, toilet rooms, water closet compartments, pantries, storerooms, foyers, closets,

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corridors, rooms for mechanical equipment for service in the building, or other similar spaces not used by persons frequently or during extended periods.

HARBORAGE PLACES (INSECTS, PESTS OR RODENTS): Any place where insects, pests or rodents can live, nest or seek shelter.

INFESTATION: The presence, within or contiguous to, a structure or premises of insects, rodents, vermin or other pests.

KITCHEN: A space which contains a sink, and adequate space for installing cooking and refrigeration equipment and for the storage of cooking utensils.

MULTIPLE-FAMILY DWELLING: A building or portion thereof designed or altered for occupancy by two (2) or more families living independently of each other in separate dwelling units.

OCCUPANCY PERMIT: A document which states the names, ages, relationships, and number of occupants of a dwelling unit, and that the occupancy complies with all of the provisions of this Chapter. It is issued under the circumstances listed in Section 520.270.

OCCUPANT: Any person living and sleeping in a dwelling unit or having actual possession of said unit or rooming unit; or any person other than "family" as defined in Section 515.010 of this Municipal Code who shall have resided within the said dwelling or rooming unit for a period of more than thirty (30) days.

OPENABLE AREA: That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR: Any person who has charge, care or control of a building, or part thereof, which is let or offered for occupancy.

OWNER: Any person, firm or corporation who, alone, jointly, or severally with others, shall be in actual possession of, or have charge, care or control of, any dwelling or dwelling unit within the municipality as owner, employee or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be bound to comply with the provisions of this Chapter to the same extent as the owner.

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

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PLUMBING: Facilities and equipment including, but not limited to, the following: Gas pipes, gasburning equipment, water pipes, steam pipes, garbage disposal units, waste pipes, toilets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar fixtures, together with all connections to water, sewer, vent or gas lines.

PREMISES: A lot, plot or parcel of land or any part thereof including the buildings or structures thereon.

PROVIDED: Any material furnished, supplied, paid for or under the control of the owner.

PUBLIC HALL: A hall, corridor or passageway for egress from a dwelling not within the exclusive control of one (1) family or dwelling unit.

ROOMING UNIT: Any room or group of rooms or any part thereof forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

REPAIR: To restore to a sound and acceptable state of operation, serviceability or appearance. Repairs shall be expected to last approximately as long as would the replacement by new items.

REPLACE: To remove an existing item or portion of a system and to construct or install a new item of similar or improved quality as the existing item when new. Replacement will ordinarily take place when the item is beyond repair.

RUBBISH: Non-putrescible solid wastes consisting of both combustible and non-combustible wastes.

STRUCTURE: Anything constructed or erected which requires location on the ground or is attached to something having location on the ground, including a fence or free standing wall. A sign, billboard or other advertising medium, detached or projecting, shall be construed to be a structure.

SUBSTANDARD: All structures which do not conform to the minimum standards established by this Chapter or any other regulations.

SUPPLIED: Paid for, installed, furnished or provided by or under the control of the owner or operator.

VENTILATION: The process of supplying and removing air by natural or mechanical means to or from any space. Ventilation by power driven devices shall be deemed mechanical ventilation. Ventilation by opening to outer air through windows, skylights, doors, louvers, or stacks without wind driven devices shall be deemed natural ventilation.

YARD: An open space at grade on the same lot as a building or structure located between the main building and the adjoining lot line, and/or street line. The measurement of a yard shall be the minimum horizontal distance between the lot line and the building or structure. (CC 1974 §525.020; Ord. No. 141B, 1-5-75; Ord. No. 253 §1, 5-13-76)

SECTION 520.030: APPLICABILITY OF CHAPTER

Every building or its premises used in whole or in part as a dwelling or as an accessory structure thereof, shall conform to the requirements of this Chapter. (CC 1974 §525.030; Ord. No. 141B, 1-5-75)

SECTION 520.040: INTERPRETATION OF CHAPTER -- SCOPE

This Chapter established minimum standards for dwellings, dwelling units and accessory buildings, and does not replace or modify standards otherwise established for the construction, replacement or repair of buildings except such as are in conflict with the provisions of this Chapter. In any case where a provision of this Chapter is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or Code of this municipality existing on the effective date of this Code, the provision which establishes the higher standard for the promotion and protection of the safety and health of the people shall prevail. (CC 1974 §525.040; Ord. No. 141B, 1-5-75)

SECTION 520.050: MINIMUM STANDARDS FOR DWELLINGS AND DWELLING UNITS -- APPLICABILITY

It shall be unlawful for any person to occupy as owner-occupant or to let or hold out to another for occupancy, any dwelling unit for the purpose of living, sleeping, cooking, or eating which is not safe, clean, and fit for human occupancy, and which does not comply with the particular requirements of the following Sections 520.060 through 520.150 of this Chapter. (CC 1974 §525.050; Ord. No. 141B, 1-5-75)

SECTION 520.060: FOUNDATION, EXTERIOR WALLS AND ROOFS

The foundation, exterior walls and roof shall be substantially watertight, weathertight, and protected against rodents and shall be kept in sound condition and repair. The foundation elements shall adequately support the building at all points. Every exterior wall shall be maintained in a sound condition of repair and shall be free of any other condition which admits rain or dampness to the interior portions of the building. All exterior surface material must be treated, painted in a workmanlike manner, or otherwise maintained in a sound

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condition. Roof drainage shall be adequate to prevent rain water from causing dampness in the walls. All cornices, rustications, quoins, moldings, belt courses, lintels, sills, oriel windows, pediments, gutters and similar projections shall be kept in good repair and free from defects which make them hazardous and dangerous. (CC 1974 §525.060; Ord. No. 141B, 1-5-75)

SECTION 520.070: FLOORS, INTERIOR WALLS AND CEILINGS

Every floor, interior wall, and ceiling shall be adequately protected against the passage and harborage of vermin and rodents, and shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding or rotting floor boards. Every interior wall and ceiling shall be free of large cracks and holes, and shall be free of loose plaster or other structural or surface materials. Every toilet room and bathroom floor surface shall be substantially impervious to water and be capable of being maintained easily in a clean and sanitary condition. Toxic paint and materials shall not be used where readily accessible to children. (CC 1974 §525.070; Ord. No. 141B, 1-5-75)

SECTION 520.080: 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 shall be fully supplied with window panes which are without cracks or holes. Every window sash shall be in good condition and fit reasonably tight within its frame. Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware. Every exterior door, door hinge, and door latch shall be in good condition. Every exterior door, when closed, shall fit reasonably well within its frame. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain, and substantially to exclude wind from entering the dwelling. Every basement hatchway and window shall be so constructed, screened or maintained as to prevent the entrance of rodents, rain and surface drainage water into the building. (CC 1974 §525.080; Ord. No. 141B, 1-5-75)

SECTION 520.090: EXTERIOR APPURTENANCES

Exterior appurtenances including, but not limited to, screens, awnings, trellises, television antennae, storm windows, and storm doors shall be installed in a safe and secure manner, and shall be maintained in sound condition. (CC 1974 §525.090; Ord. No. 141B, 1-5-75)

SECTION 520.100: STAIRWAYS AND PORCHES

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Every stairway, inside or outside of the dwelling, and every porch, shall be kept in safe condition and sound repair. Every flight of stairs and every porch floor shall be free of deterioration. Every stairwell and every flight of stairs which is more than four (4) risers high shall have a rail not less than two and one-half (2½) feet high, measured vertically from the nose of the tread to the top of the rail; and every porch which is more than four (4) risers high shall have a rail not less than two and one-half (2½) feet above the floor of the porch. Every rail and balustrade shall be firmly fastened and maintained in good condition. No flight of stairs shall have settled more than one (1) inch out of its intended position or have pulled away from supporting or adjacent structures. No flight of stairs shall have rotting, loose, or deteriorating supports. The treads and risers of every flight of stairs shall be uniform in width and height. Every stair tread shall be strong enough to bear a concentrated load of at least four hundred (400) pounds. Every porch shall have a sound floor. No porch shall have rotting, loose, or deteriorating supports. (CC 1974 §525.100; Ord. No. 141B, 1-5-75)

SECTION 520.110: BASEMENTS, GARDEN LEVELS AND CELLARS

Every basement, garden level and cellar shall be maintained in a safe and sanitary condition. Water shall not be permitted to accumulate or stand on the floor. All sewer connections shall be properly trapped. All cellar and slab drains shall be covered with grating. Junk, rubbish and waste shall not be permitted to accumulate to such an extent as to create a fire hazard or to endanger health or safety. (CC 1974 §525.110; Ord. No. 141B, 1-5-75)

SECTION 520.120: FACILITIES, EQUIPMENT AND CHIMNEYS

Every supplied facility, fixture, system, piece of equipment or utility, and every chimney and chimney flue shall be maintained in a safe, sound and sanitary working condition, consistent with the requirements of this Chapter. (CC 1974 §525.120; Ord. No. 141B, 1-5-75)

SECTION 520.130: DRIVEWAYS AND PARKING AREAS

All driveways and parking areas which are entered from a public street shall be constructed of asphalt, concrete, or other smooth, monolithic surface acceptable to the Building Commissioner of the City; driveways and parking areas consisting of loose rock, gravel, pebbles or sand shall not be deemed to comply with this Section. All driveways and parking areas shall be maintained in good repair and free of safety hazards and shall be graded so as to prevent the accumulation of water. (CC 1974 §525.130; Ord. No. 141B, 1-5-75; Ord. No. 314 §§1--2, 11-9-78)

SECTION 520.140: YARDS

All areas which are not covered by lawn or vegetation shall be treated to prevent dust or the blowing or scattering of dust particles into the air. All trees, bushes or vegetation which overhang a public thoroughfare shall be properly trimmed to avoid obstruction of the view and movements of vehicles and pedestrians. Hazardous dead trees and shrubs shall be promptly removed. (CC 1974 §525.140; Ord. No. 141B, 1-5-75)

SECTION 520.150: INFESTATION

Each dwelling and all exterior appurtenances on the premises shall be adequately protected against insects, rats, mice, termites, and other vermin infestation. Building defects which permit the entrance of insects, rats, mice, termites, and other vermin shall be corrected by the owner. Tenants shall be responsible for the elimination of rodents and vermin from that part of the premises under their exclusive control except when more than one (1) unit is infested at the same time and in this instance the owner shall be responsible for elimination of the infestation. (CC 1974 §525.150; Ord. No. 141B, 1-5-75)

SECTION 520.160: SPACE REQUIREMENTS AT CHANGE OF OCCUPANCY

- A. *Space Requirements.* Every dwelling unit shall contain a minimum gross floor area of not less than one hundred fifty (150) square feet for the first (1st) occupant, and one hundred (100) square feet for each additional occupancy. The floor area shall be calculated on the basis of the total area of all habitable rooms.
- B. *Required Space In Sleeping Rooms.* In every dwelling unit, every room occupied for sleeping purposes by one (1) occupant shall have a minimum gross floor area of at least seventy (70) square feet. Every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant thereof.
- C. *Ceiling Height.* Habitable rooms shall have a clear ceiling height over the minimum area required of at least seven (7) feet. Attics or top half stories calculated as habitable rooms shall have a clear ceiling height of at least seven (7) feet over at least one-third (1/3) of the floor area. Only those portions of the floor area of such rooms having a clear ceiling height of five (5) feet or more may be included.
- D. *Basement Rooms.* Basement rooms and below ground level areas that do not comply with Section 520.170 shall not be considered in computing the minimum habitable floor area required. (CC 1974 §525.160; Ord. No. 141B, 1-5-75)

SECTION 520.170: BASEMENT AND GARDEN LEVEL ROOMS

It shall be unlawful for any person to use or permit any room in any basement or garden level to be used to satisfy the habitable room requirements of Section 520.160 unless such room meets all the applicable requirements of this Chapter, particularly with regard to ceiling height, ventilation, window area, and meets the following additional requirements:

1. The lowest point of the ceiling shall be at least three (3) feet six (6) inches above the surface of the ground immediately adjoining the room.
2. The required minimum window area is entirely above ground level.
3. No floor area three (3) feet below grade shall be used in determining habitable living space.
4. Two (2) means of exit are provided, at least one (1) of which leads directly to the outside of the building.
5. The floors and walls shall be constructed in a manner to prevent the entry of moisture and insulated to prevent the condensation of moisture within the room. (CC 1974 §525.170; Ord. No. 141B, 1-5-75)

SECTION 520.180: ILLUMINATION

- A. *Public Halls.* All habitable rooms, passageways and stairways shall be provided with electrical fixtures so that they can be adequately lighted at night. A minimum of five (5) footcandles of daylight or artificial illumination shall be required at all times in public halls.
- B. *Natural Lighting.* All habitable rooms except as otherwise provided in this Chapter shall be provided with a means of transmitting natural light from outside complying with the following requirements.
- C. *Window Area.* Every habitable room shall have at least one (1) window or skylight of approved size facing directly to the outdoors except in kitchens where artificial light may be provided in accordance with the provisions of the Building Code. The minimum total window area, measured between stops, for every habitable room shall be at least five percent (5%) of the floor area of such room, and not less than five (5) square feet. Whenever walls or other portions of a structure face a window of any room and such obstructions are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area for the room.

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- D. *Windows Leading To Porches.* Whenever the natural light area opening from a habitable room is to an enclosed porch, such area shall not be counted as a required light area unless the enclosed porch has a natural light area of at least thirty percent (30%) of the floor area of the room in question. (CC 1974 §525.180; Ord. No. 141B, 1-5-75)

SECTION 520.190: ELECTRICAL SERVICE

- A. *Generally.* It shall be unlawful to occupy or permit another to occupy any dwelling unit for the purpose of living therein, which is not adequately and safely provided with an electrical system in compliance with the requirements of this Section.
- B. *Minimum Requirements.* The following shall be considered as absolute minimum requirements: Conditions such as size of the dwelling unit and usage of appliances and equipment within the unit shall be used as the basis for requiring additional electrical works.
- C. *Deficiencies.* Wherever it is found, in the judgment of the Enforcement Official, that the electrical system in the building constitutes a hazard to the occupants or the building by reason of inadequate service, improper fusing, improper or inadequate grounding of the system, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the defects shall be corrected to eliminate the hazard. The Enforcement Official shall base his/her findings of hazard on accepted engineering practice standards as listed in the latest edition of the National Electrical Code of the National Electrical Contractors Association.
- D. *Number Of Electrical Outlets.* Every habitable room shall contain not less than two (2) separate and remote wall or approved floor convenience outlets, one (1) of which may be a ceiling or wall-type electric light fixture. Every kitchen shall be provided with at least three (3) separate and remote wall-type electric convenience outlets one (1) of which may be a ceiling or wall-type electric light fixture.
- E. *Laundry Area.* Every laundry area shall contain at least one (1) grounded type convenience outlet.
- F. *Non-Habitable Space.* Every bathroom, laundry room, furnace room, and public hall shall contain not less than one (1) ceiling or wall lighting fixture.
- G. *Good Working Order.* Every outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.
- H. *Hazards Defined.* In addition to the hazards established by the Enforcement Official, the following installations are prohibited and their presence shall be deemed a hazard:

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1. Flush or semi-flush mounted floor convenience outlets, unless provided with an approved waterproof cover.
2. Extension cords for other than short term, temporary use.
3. Conductor supported pendant switches or conductor supported light fixtures.
4. Loose or hanging wires.
5. Frayed or bare wires.
6. Inadequately grounded, grounded type convenience outlets. (CC 1974 §525.190; Ord. No. 141B, 1-5-75)

SECTION 520.200: WATER FACILITIES

- A. *Scope.* No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit which does not comply with the following requirements regarding water facilities.
- B. *Bathrooms.* Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet, lavatory basin and bathtub or shower, all of which are in good working condition and are properly connected to hot and cold water lines and to an approved water and sewer system.
- C. *Kitchen Sink.* Every dwelling unit shall contain a kitchen sink apart from the lavatory basin required which is in good repair, and in working condition, properly connected to hot and cold water lines and to an approved water and sewer system.
- D. *Water Heating Facilities.* Every dwelling unit shall have supplied water heating facilities which are properly installed and are maintained in a safe and good working condition, capable of heating water to a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred twenty degrees Fahrenheit (120°F).
- E. *Plumbing Fixtures.* Every dwelling unit and structure covered by this Chapter shall have water lines, plumbing fixtures, vents, and drains which are properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which they are designed. All repairs and installations shall be made in accordance with the provisions of the Building Code or Plumbing Code of the City. (CC 1974 §525.200; Ord. No. 141B, 1-5-75)

SECTION 520.210: HEATING

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- A. *Applicability.* Every dwelling unit shall have heating facilities which are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments within its walls to a temperature of at least seventy degrees Fahrenheit (70°F) when the outside temperature is minus ten degrees Fahrenheit (-10°F), and a temperature of at least sixty degrees Fahrenheit (60°F) when the outside temperature is less than minus ten degrees Fahrenheit (-10°F).
- B. *Prohibited Equipment.* Gas appliances designed primarily for cooking or water heating purposes shall not be considered as heating facilities within the meaning of this Section. Portable heating equipment employing flame and the use of liquid fuels or coal does not meet the requirements of this Chapter and is prohibited.
- C. *Good Working Condition.* The owner shall see that the heating facilities shall be properly installed, safely maintained and in good working condition. (CC 1974 §525.210; Ord. No. 141B, 1-5-75)

SECTION 520.220: VENTILATION REQUIREMENTS

- A. *Generally.* Every habitable room shall have a natural ventilation or a mechanical ventilation system adequate for the purpose for which the room is used.
- B. *Toilet Rooms, Bathrooms And Kitchens.* Every toilet room, bathroom and kitchen shall have adequate ventilation which may be either an openable window with an openable area of five percent (5%) of the floor area, mechanical ventilation, or a gravity vent flue constructed with incombustible material leading to the roof of the building or a combination of any of these. The gravity vent shall be computed at an aggregate clear area of not less than five percent (5%) of the floor area of the room with a minimum area of at least one hundred twenty (120) square inches. Gravity vents shall be provided with a weather cap, directional vane or rotary type ventilation on the roof.
- C. *Adequacy.* A ventilating system maintained in a safe and good working condition which provides a complete change of air for the bathroom or water closet compartment every fifteen (15) minutes shall meet the requirements of this Chapter. (CC 1974 §525.220; Ord. No. 141B, 1-5-75)

SECTION 520.230: REFUSE, GARBAGE AND RUBBISH STORAGE

Adequate containers and covers for storage of rubbish, refuse, and garbage shall be required for every dwelling unit. (CC 1974 §525.230; Ord. No. 141B, 1-5-75)

SECTION 520.240: ACCESSORY STRUCTURES

- A. *Obstruction Or Disrepair Not Permitted.* Accessory structures shall not obstruct light and air of doors and windows of any dwelling unit, or obstruct a safe means of access to any dwelling until or create fire and safety hazards or provide rat or vermin harborage. Accessory structures shall be functional and shall be maintained in a state of good repair and alignment. All structures must have vermin-proof floors.
- B. *Removal Of Non-Functioning Structures.* All exterior appurtenances or accessory structures which serve no useful purpose and are in a deteriorated condition which are not economically repairable, shall be removed. Such structures shall include, but not be limited to, porches, terraces, entrance platforms, garages, driveways, carports, walls, fences, miscellaneous sheds and sidewalks. (CC 1974 §525.240; Ord. No. 141B, 1-5-75)

SECTION 520.250: EGRESS

- A. *General Egress.* Every dwelling unit shall have a safe and unobstructed means of egress leading to safe and open space outside at the ground level. Passage through such exit shall not lead through any other dwelling unit.
- B. *Structures With Three Or More Stories.* All habitable structures of three (3) or more stories with dwelling units occupying the third (3rd) or higher story shall be provided with two (2) separate usable unobstructed means of egress for each dwelling unit located above the second (2nd) story.
- C. *Easy Egress Mandatory.* Every door available as an exit shall be capable of being opened from the inside easily and without the use of a key. (CC 1974 §525.250; Ord. No. 141B, 1-5-75)

SECTION 520.260: ENFORCEMENT AUTHORITY

- A. *Enforcement Official.* It shall be the duty and responsibility of the Enforcement Official and his/her delegated representatives of the municipality to enforce the provisions of this Chapter. No order for correction of any violation under this Chapter shall be issued without the approval of the Enforcement Official.
- B. *Inspections.*
 - 1. The Enforcement Official is authorized and directed to make inspections to determine whether dwellings, dwelling units, rooming units, accessory structures and premises located within the municipality conform to the requirements of this Chapter. For the

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purpose of making such inspections, the Enforcement Official is authorized to enter, examine and survey at reasonable times all dwellings, dwelling units, rooming units, accessory structures, and premises. The owner or occupant of every dwelling, dwelling unit, rooming unit, accessory structure, and its premises shall give the Enforcement Official access thereto at reasonable times for the purpose of such inspection, examination and survey.

2. If any owner, occupant, or other person in charge of a structure subject to the provisions of this Chapter refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to every part of the structure or premises where inspection authorized by this Chapter is sought, the Enforcement Official may seek, in a court of competent jurisdiction, an order that such owner, occupant, or other person in charge cease and desist with such interference.
3. Inspections shall be initiated under the following circumstances:
 - a. Upon application for any occupancy permit for the dwelling unit or other notification that there will be a change of occupancy of said dwelling unit.
 - b. When, on the basis of a complaint or his/her personnel observation, the Enforcement Official reasonably suspects that a dwelling unit has Code violations, and as such, constitutes a health and/or safety hazard.

C. *Access By Owner Or Operator.* Every occupant of a structure or premises shall give the owner or operator thereof, or his/her agent or employee, access to any party of such structure or its premises at reasonable times for the purpose of making such inspection, maintenance, repairs, or alterations as are necessary to comply with the provisions of this Chapter. (CC 1974 §525.260; Ord. No. 141B, 1-5-75)

SECTION 520.270: OCCUPANCY PERMIT REQUIRED

- A. *Applicability.* This Section shall not apply to any occupancy in existence at the time of the adoption of this Code and until a change of occupancy occurs.
- B. *Scope.* Except as otherwise provided, it shall be unlawful for any person or family to occupy, or for any owner or agent thereof to permit the occupation of any dwelling, dwelling unit or addition thereto, or part thereof, for any purpose until an occupancy permit has been issued by the Enforcement Official. The occupancy permit shall not be issued until all violations of this Chapter have been brought into compliance. The occupancy permit so issued shall state that the occupancy complies with all of the provisions of this Chapter.
- C. *Fee.* The fee for said occupancy permit shall be two dollars (\$2.00) for each dwelling unit occupied.

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- D. *Content Of Occupancy Permit.* The occupancy permit shall state the names, ages, relationships, and number of occupants of the dwelling unit. It shall be unlawful for any person to knowingly make any false statement in his/her application for an occupancy permit as to the names, ages, relationships, or number of occupants of the dwelling unit. No more than one (1) family as defined in this Chapter shall occupy each dwelling unit. All persons who occupy the premises of a dwelling unit must be listed on the occupancy permit or be subject to the penalties provided in this Chapter.
- E. *Report Change Of Occupancy.* Every dwelling unit in which a change of occupancy is to occur must be reported by the owner to the City so that the Enforcement Official may inspect the structure according to the provisions of this Chapter. Upon inspection, he/she shall determine the number of occupants which can be housed in the dwelling unit without creating a health or safety hazard. Failure to make such a report shall constitute a violation of this Chapter, and the person responsible for the failure shall be subject to the penalties of this Chapter.
- F. *Responsibilities Of Real Estate Brokers.* All real estate brokers and agents and similar businesses and owners of multiple-family dwelling units shall report each dwelling unit which is to change occupancy as in this Chapter defined so that the Enforcement Official may inspect the unit according to the provisions of this Chapter. Failure to register or make such a report shall constitute a violation of this Chapter, and the person or firm responsible for the failure shall be subject to the penalties of this Chapter.
- G. *Conditional Occupancy Permit.* A conditional occupancy permit may be issued by the Enforcement Official if, in his/her judgment, any deficiencies in structures covered by this Chapter would not seriously endanger the health or safety of the occupants or the community, and provided that the occupant makes an affidavit stating that he/she will correct deficiencies within a specified time and thus bring the structure into compliance with the provisions of this Chapter. The occupant may then occupy the dwelling unit while repairs are being made. At such time as the dwelling complies with all the provisions of this Chapter, an occupancy permit will be issued as provided above. (CC 1974 §525.270; Ord. No. 141B, 1-5-75)

SECTION 520.280: NON-COMPLIANCE WITH CHAPTER -- NOTICE TO BE GIVEN

Whenever the Enforcement Official or his/her delegated representative finds evidence of a violation of any provision of this Chapter, he/she shall declare a public nuisance, and give notice of same to the person or persons responsible hereunder. Such notice shall be in writing and shall include a statement of each of the provisions of this Chapter being violated together with a statement of the corrective action required to cure such violation. Such notice shall specify the period of time within which such remedial action shall be taken, which time shall be a reasonable period of time under all of the circumstances. Appeal procedures

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available shall be specified. Such notice shall be served by delivering a copy to the owner, or his/her agent, or the occupant, as the case may require, or, if such person cannot be found, by sending a copy of the notice by registered or certified mail with return receipt requested, or if same cannot be delivered, by posting a copy of such notice in a conspicuous place in or about the building affected by the notice. The notice shall be deemed served on the date served or received or ten (10) days after posting as herein provided. (CC 1974 §525.280; Ord. No. 141B, 1-5-75)

SECTION 520.290: NON-COMPLIANCE WITH CHAPTER

- A. *Remedy Of Defects.* The owner of any building shall have thirty (30) days from the issuance of the notice provided for in Section 520.280 in which to remedy the condition therein specified, except that emergency conditions shall require immediate action as provided in Section 525.110, provided however, that the Enforcement Official may, at his/her discretion, extend the time for compliance with any such notice.
- B. *Reinspection.* At the time when the defects have allegedly been brought into compliance, the Enforcement Official shall reinspect the dwelling, dwelling unit, rooming unit, accessory structure and its premises. At this time, he/she shall make a complete inspection, taking particular notice that the violations previously noted have been brought into compliance, and that no new violations have come into existence in the time which has elapsed since the first (1st) inspection. (CC 1974 §525.290; Ord. No. 141B, 1-5-75)

SECTION 520.300: BROKEN GLASS AND BOARDING-UP

- A. *Applicability.* Every window, glazed exterior door, exterior transom, or exterior sidelight shall be provided with properly installed glass or other approved glazing material. In the event of breakage, the owner shall cause the immediate removal of broken glass from the premises and shall temporarily board up the affected openings with suitable material to provide protection from the elements and to prevent entry of birds or animals and to provide security to occupants or contents of the building. Within ten (10) days after the boarding-up, the owner shall cause the boarding material to be removed, and all affected openings shall be simultaneously reglazed by the owner.
- B. *Provision Of Adequate Lighting And Ventilation.* Adequate ventilation and natural lighting shall be provided for all occupied dwelling units. Whenever any exterior openings are found boarded-up, it shall be the duty of the Enforcement Official to notify the owner or agent of this requirement giving him/her a period of not more than ten (10) working days in which to properly replace the broken glass or cause the dwelling unit to be vacated. This notice shall be given in the manner required by Section 520.280.

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- C. *Specifications.* Since the presence of boarded-up buildings, particularly those where the boarding is unpainted or applied in an insecure, careless, or unpresentable fashion, invites vandalism and creates a blighting influence which adversely affects the general welfare of the people of this municipality, it is hereby required that all boarding-up of exterior openings be accomplished in a neat workmanlike manner with not less than one-half (½) inch thick, weather-resistant plywood cut to fit within the openings, fastened in place as securely as possible, and suitably coated with an appropriate neutral color blending with or harmonizing with the exterior colors of the building as inconspicuously as possible. It shall be the duty of the Enforcement Official to notify the owner or agent of any boarded-up dwelling unit not complying with the above requirements, of the necessity of immediate compliance and ordering him/her to replace the broken glass, or repair, replace or paint the boarding. This notice shall be given in the manner required in Section 520.280. (CC 1974 §525.320; Ord. No. 141B, 1-5-75)

SECTION 520.310: REGISTRATION OF REAL ESTATE AND POSTING OF NOTICE REQUIRED

Any owner of an interest in real estate within the City which is for sale, exchange, lease or rental, or any real estate agent, broker or real estate agency having a listing agreement with said owner for said purposes shall be required to:

1. Register the address of the real estate with the City Clerk immediately after the real estate becomes available for sale, exchange, lease or rental and provide the City Clerk with the name of the owner and the real estate agent, and
2. Post and maintain a notice as described in Section 520.320 in the manner provided in Section 520.330. (Ord. No. 395 §1, 2-12-86)

SECTION 520.320: PROVISIONS OF NOTICE

The notice shall be on forms available from and provided by the City and shall read substantially as follows:

WELCOME TO VELDA CITY

Prior to occupancy to this residence the following requirements must be met:

1. This residence must be inspected by the Velda City Building Commissioner and must comply with all Building Codes;
2. An occupancy permit must be obtained from the Velda City Hall by the new occupants;

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3. This house is approved for _____ occupants.

The Building Commissioner's Inspection Report and Applications for Occupancy Permits are available at the Velda City Hall.

The law requires this notice to remain on the premises until an occupancy certificate is issued.

Any violation of these requirements is subject to penalties provided for in the municipal Code.

DO NOT REMOVE THIS NOTICE

Velda City Hall, 2803 Maywood, Velda City, Missouri 63121 382-6600

(Ord. No. 395 §1, 2-12-86)

SECTION 520.330: MANNER OF POSTING NOTICE

- A. The notice shall be posted within three (3) days after the real estate becomes available for sale, exchange, lease or rental, or within twenty-four (24) hours after a real estate sign is displayed for said purpose, whichever is earlier.
- B. The notice shall remain posted continuously until an occupancy permit is issued or the real estate is no longer available for sale, exchange, lease or rental.
- C. The notice shall be placed between five (5) and six (6) feet high:
 - 1. At the front door entrance of a single-family home, and
 - 2. At the main building entrance and the front entrance to the residential unit of a multi-family dwelling. (Ord. No. 395 §1, 2-12-86)

SECTION 520.340: PENALTIES

- A. It shall be unlawful for any person to alter or remove a Section 520.320 notice.
- B. It shall be unlawful for any owner of an interest in real estate which is for sale, exchange, lease or rental or any real estate agent, broker or real estate agency having a listing agreement with said owner for said purposes to:
 - 1. Fail to timely register the address of the real estate with the City Clerk;
 - 2. Fail to timely post or maintain a Section 520.320 notice in the form and manner required by Section 520.330.

- C. Any person convicted of violating Subsections (A) and (B) of this Section shall be subject to a fine to a maximum of one thousand dollars (\$1,000.00) and each day of violation shall constitute a separate offense. (Ord. No. 395 §1, 2-12-86; Ord. No. 617 §1, 7-8-09)

CHAPTER 525: DANGEROUS BUILDINGS

SECTION 525.010: PURPOSE AND SCOPE

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

SECTION 525.020: DANGEROUS BUILDINGS DEFINED

All buildings or structures that are detrimental to the health, safety or welfare of the residents of the City and that have any or all of the following defects shall be deemed "*dangerous buildings*":

1. Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
2. Those that, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of the supporting member or members, or fifty percent (50%) damage or deterioration of the non-supporting enclosing or outside walls or covering.
3. Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
4. Those that 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.
5. Those that are so dilapidated, decayed, unsafe, unsanitary or that 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.

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6. Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.
8. Those that have parts thereof that are so attached that they may fall and injure members of the public or property.
9. Those that because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this City.

SECTION 525.030: DANGEROUS BUILDINGS DECLARED NUISANCE

All dangerous buildings or structures, as defined by Section 525.020 of this Chapter are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided herein.

SECTION 525.040: STANDARDS FOR REPAIR, VACATION OR DEMOLITION

The following standards shall be followed in substance by the Building Inspector and the Building Commissioner, in ordering repair, vacation or demolition of any dangerous building.

1. If the dangerous building can reasonably be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be ordered repaired.
2. If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.
3. In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be demolished.
4. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this Chapter or any ordinance of this City or Statute of the State of Missouri, it shall be repaired or demolished.

SECTION 525.050: BUILDING INSPECTOR

The Building Inspector or his/her designee shall be the Building Inspector(s) within the meaning of this Chapter.

SECTION 525.060: DUTIES OF BUILDING INSPECTOR -- PROCEDURE AND NOTICE

The Building Inspector(s) shall have the duty under this Chapter to:

1. Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such place to be a dangerous building when he/she has reasonable grounds to believe that any such building is dangerous.
2. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this Chapter, and the Building Inspector determines that there are reasonable grounds to believe that such building is dangerous.
3. Inspect any building, wall or structure reported by the Fire or Police Departments of this City as probably existing in violation of this Chapter.
4. Notify the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building or structure, as shown by the land records of the Recorder of Deeds of St. Louis County, of any building or structure found by him/her to be a dangerous building or structure within the standards set forth in Section 525.020. Such notice shall be in writing and shall be given either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) consecutive weeks.

The notice required shall state that:

- a. The owner must vacate, vacate and repair or vacate and demolish said building and clean up the lot or property on which the building is located in accordance with the terms of the notice and this Chapter.
- b. The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession.
- c. The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County may, at his/her own risk, repair, vacate or demolish the building and clean up the property or have such work done;

provided, that any person notified under this Subsection to repair, vacate or demolish

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any building or clean up the property, shall be given such reasonable time not exceeding thirty (30) days, to commence the required work.

5. The notice provided for in this Section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the building or structure a dangerous building, a statement indicating that as a dangerous building, said building or structure constitutes a nuisance and an order requiring the designated work to be commenced within the time provided for in the above Subsection.
6. Report in writing to the City Building Commissioner the non-compliance with any notice to vacate, repair, demolish, clean up the property or upon the failure to proceed continuously with the work without unnecessary delay.
7. Appear at all hearings conducted by the Building Commissioner and testify as to the condition of dangerous buildings.
8. Immediately report to the Building Commissioner concerning any building found by him/her to be inherently dangerous and that he/she determined to be a nuisance per se. The Building Commissioner 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 Inspector. This notice is to remain on this building and/or property until it is repaired, vacated or demolished and the property is cleaned up in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County. It is unlawful to remove this notice until such notice is complied with."

Provided however, that the order by the Building Commissioner and the posting of said notice, shall not be construed to deprive all persons entitled thereto by this Chapter to the notice and hearing prescribed herein.

SECTION 525.070: BUILDING COMMISSIONER

The Building Commissioner or his/her authorized representative shall act as Building Commissioner under this Chapter.

SECTION 525.080: DUTIES OF THE BUILDING COMMISSIONER

The Building Commissioner shall have the powers and duties pursuant to this Chapter to:

1. Supervise all inspections required by this Chapter, and cause the Building Inspector to

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make inspections and perform all the duties required of him/her by this Chapter. Upon receiving a complaint or report from any source, that a dangerous building exists in the City, the Building Commissioner shall cause an inspection to be made forthwith. If the Building Commissioner deems it necessary to the performance of his/her duties and responsibilities imposed herein, the Building Commissioner may request an inspection and report be made by any other City Department or retain services of an expert whenever the Building Commissioner deems such service necessary.

2. Upon receipt of a report from the Building Inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other persons(s) having an interest in said building to commence work of reconditioning or demolition within the time specified by this Chapter or upon failure to proceed continuously with work without unnecessary delay, hold a hearing giving the affected parties full and adequate hearing on the matter.
3. Give written notice of said hearing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of those modes of service then, by publication in a newspaper qualified to publish legal notices, at least ten (10) days in advance of the hearing date, to the owner, occupant, mortgagee, lessee, agent 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, who may appear before the Building Commissioner 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 Inspector's notice as provided herein. Any party may be represented by counsel and all parties shall have an opportunity to be heard.
4. Make written findings of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of Section 525.020 of this Chapter.
5. If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, and a nuisance and detrimental to the health, safety or welfare of the residents of the City, the Building Commissioner shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other persons(s) having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County to repair, vacate or demolish any building found to be a dangerous building and to clean up the property, provided that any person so notified, shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this City or may vacate and demolish said dangerous building at his/her 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, or a nuisance or detrimental to the health, safety or welfare of the residents of the City, no order shall be

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issued.

6. If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the Building Commissioner shall cause such building or structure to be repaired, vacated or demolished and the property cleaned up as the facts may warrant. If the Building Commissioner or other designated officer or officers issues an order whereby the building or structure is demolished, secured, or repaired, or the property is cleaned up, the cost of performance shall be certified to the City Clerk or officer in charge of finance, who shall cause a special tax bill or assessment therefor against the property to be prepared and collected by the City Collector or other official collecting taxes, unless the building or structure is demolished, secured or repaired by a contractor pursuant to an order issued by the City and such contractor files a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided in Sections 429.010 to 429.360, RSMo. Except as provided in Section 525.090, at the request of the taxpayer the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from the date of its issuance shall be deemed a personal debt against the property owner and shall also be a lien on the property until paid. Said tax bill or assessment shall bear interest at a rate of eight percent (8%) per annum until paid.

SECTION 525.090: INSURANCE PROCEEDS -- HOW HANDLED

- A. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the following procedure is established for the payment of up to twenty-five percent (25%) of the insurance proceeds, as set forth in this Subsection. This Subsection shall apply only to a covered claim payment that is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure:
 1. The insurer shall withhold from the covered claim payment up to twenty-five percent (25%) of the covered claim payment, and shall pay such monies to the City to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this Chapter.
 2. The City shall release the proceeds and any interest that has accrued on such proceeds received under subdivision (1) of this Subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance monies, unless the City has instituted legal proceedings under the provisions of Subsection (6) of Section 525.080. If the City has proceeded under the provisions of Subsection (6) of Section 525.080, all monies in excess of that necessary to comply with the provisions of Subsection (6) of Section 525.080 for the removal, securing, repair and clean up of the building or structure and the lot on which it is located, less salvage value,

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shall be paid to the insured.

- B. If there are no proceeds of any insurance policy as set forth in Subsection (A) of this Section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from the date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.
- C. This Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.
- D. This Section does not make the City a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.
- E. The Building Commissioner may certify that in lieu of payment of all or part of the covered claim payment under Subsection (A) that it has obtained satisfactory proof that the insured has removed or will remove the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the Building Commissioner shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to Subsection (A) of this Section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided for in this Subsection.

SECTION 525.100: APPEAL

Any owner, occupant, lessee, mortgagee, agent or any other person(s) having an interest in a dangerous building as shown by the land records of the Recorder of Deeds of St. Louis County, may appeal such decision to the Circuit Court of St. Louis County, as provided for in Sections 536.100 to 536.140, RSMo. if a proper record as defined in Section 536.130, RSMo., is maintained of the hearing provided for in Section 525.080 hereof. Otherwise, the appeal shall be made pursuant to the procedures provided for in Section 536.150, RSMo.

SECTION 525.110: EMERGENCIES

In cases where it reasonably appears that there is immediate danger to the health, life, safety or welfare of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the Building Inspector shall report such facts to the Building Commissioner and the Building Commissioner may cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Sections 525.080 and 525.090.

SECTION 525.120: VIOLATIONS -- DISREGARDING NOTICES OR ORDERS

The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the Building Commissioner or who shall fail to proceed continuously without unnecessary delay; and any person removing any notices provided for in this Chapter; and any person violating any other provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one thousand dollars (\$1,000.00). Each day that a person fails to comply with an order of the Building Commissioner may be deemed a separate offense. (Ord. No. 617 §1, 7-8-09)

CHAPTER 527: REGISTRATION OF VACANT RESIDENTIAL STRUCTURES

SECTION 527.010: PURPOSE AND SCOPE

It is the purpose of this Chapter to provide for effective monitoring and routine inspection of vacant buildings and structures that, due to housing code violations, may endanger the life, limb, health, property, safety or welfare of the general public and this Chapter shall apply to all residential structures that have been vacant for more than six (6) months and that are subject to housing code violations. (Ord. No. 573 §1, 6-9-04)

SECTION 527.020: DEFINITIONS

The following words and phrases when used in this Chapter shall mean:

HOUSING CODE: A local building, fire, health, property maintenance, nuisance or other ordinance which contains standards regulating the condition or maintenance of residential buildings.

RESIDENTIAL STRUCTURE: A structure devoted primarily to residential use, whether classified as residential or commercial, and regardless of the number of dwelling units contained within such structure. (Ord. No. 573 §1, 6-9-04)

SECTION 527.030: REGISTRATION REQUIREMENT

Every parcel of residential property improved by a residential structure or commercial

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property improved by a structure containing multiple dwelling units, that is vacant, and has been vacant for at least six (6) months, and is characterized by violations of the housing code shall be registered as a vacant residential structure and shall be subject to the registration fee. (Ord. No. 573 §1, 6-9-04)

SECTION 527.040: DESIGNATION OF VACANT RESIDENTIAL STRUCTURES

- A. *Registration.* The Building Commissioner of Velda City, Missouri, or his/her designee shall investigate any property that may be subject to registration. Based upon his/her findings, the Building Commissioner may register property as a vacant residential structure subject to this Chapter.
- B. *Notice Of Registration.* Within five (5) business days of such registration, the City Clerk shall notify the owners of the registered property by mail at their last known address according to the records of the City and St. Louis County. Such notice shall state:
 - 1. A description of the property registered;
 - 2. A description of the housing code violations found on the property;
 - 3. The fact that a semi-annual registration fee has been levied on the property; and
 - 4. The amount of the semi-annual registration fee.
- C. *Time To Cure--Reconsideration.* Within thirty (30) days of the date of notification, the property owner may complete any improvements to the property that may be necessary to remove the property from registration under this Chapter and may request a reinspection of the property and reconsideration of the levy of the registration fee. Upon receipt of a written request for reconsideration of the levy of the registration fee, which sets out the reasons claimed, by the property owner as to why the registration fee should be waived, the Building Commissioner may waive levy of the registration fee following timely compliance.
- D. *Appeal Of Registration And/Or Reconsideration To Municipal Court.* Within thirty (30) days of the date of such notification or within thirty (30) days of the date of reconsideration by the Building Commissioner, the property owner may appeal the decision to the office of the Municipal Court for Velda City, Missouri. (Ord. No. 573 §1, 6-9-04)

SECTION 527.050: REGISTRATION FEE

- A. *Amount Of Fee.* There is hereby established and assessed a semi-annual fee in the amount of two hundred dollars (\$200.00) imposed on all owners of property registered under this Chapter.

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- B. *Owner Responsible.* It shall be the joint and several responsibility of each owner of property registered pursuant to this Chapter to pay the semi-annual registration fee.
- C. *Accrual Of Fee.* The registration fee shall begin to accrue on the beginning of the second calendar quarter after registration by the Building Commissioner or reconsideration by the Building Commissioner; however, in the event that an appeal is filed with the Municipal Court, the registration fee shall begin to accrue on the beginning of the second calendar quarter after the final decision of the Municipal Judge or court of competent jurisdiction.
- D. *Billing Procedures--Late Penalties.* The City Clerk shall cause to be mailed to the owner of property registered under this Chapter, at his/her last known address, a bill for the semi-annual registration fee. The fee shall be due and payable within thirty (30) days of mailing. In addition to any other penalties provided by law, if an owner fails to pay the fee assessed for such property within thirty (30) days of the date of mailing, a late payment fee of twenty-five dollars (\$25.00) per month shall be assessed for each month during which the fee remains unpaid.
- E. *Failure To Pay Fee Unlawful.* It shall be unlawful for any owner of property registered pursuant to this Chapter to fail to pay the registration fee imposed for such property. Any person found guilty of failing to pay any required fee shall be punished as provided in Section 100.210 of the Municipal Code of Velda City.
- F. *Collection Of Delinquent Fees--Lien On Property And Other Effects Of Delinquent Fees--Foreclosure Proceedings.*
 - 1. *Action to recover.* In addition to any other penalties provided by law, the City may initiate and pursue an action in a court of competent jurisdiction to recover any unpaid fees, interest and penalties from any person liable therefore and, in addition, may recover the cost of such action, including reasonable attorney fees.
 - 2. *Lien on property.* Any unpaid or delinquent fees, interest and/or penalties, whether or not reduced to judgment, shall constitute a lien against the property for which the fee was originally assessed until the same shall be fully satisfied. The City Clerk is authorized to take all steps necessary to file and perfect such liens as may be required or directed by the Building Commissioner from time to time.
 - 3. *Obtaining permits prohibited.* In addition to any other penalties provided by law, if an owner fails to pay the fee assessed for such property, including any late payment fee subsequently imposed, within sixty (60) days of the date of mailing of the initial bill, said owner shall not be permitted to apply for, obtain or renew any City license or permit of any kind until such delinquency has been satisfied.
 - 4. *Foreclosure.* Any registration fees which are delinquent for a period of one (1) year shall be subject to foreclosure proceedings in the same manner as delinquent real property

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taxes. The owner of the property against which the assessment was originally made shall be able to redeem the property only by presenting evidence that the violations of the applicable housing code cited by the Building Commissioner have been cured and presenting payment of all registration fees and penalties.

5. *Sale of property.* Upon bona fide sale of the property to an unrelated party, the lien on such property for the registration fees shall be considered released and the delinquent registration fee forgiven. (Ord. No. 573 §1, 6-9-04)

CHAPTER 530: ERECTION OF FENCES

SECTION 530.010: CONSTRUCTION AND ERECTION OF FENCES

Fences may be constructed and erected on properties within the City limits, providing however, that no fence of solid construction shall be permitted, nor any "*spite fence*" nor shall any fence be permitted, erected or constructed beyond the front setback building line on any lot or lots within the City. (CC 1974 §535.010; Ord. No. 148 §1, 5-7-70)

SECTION 530.020: PENALTY

Any person violating the provisions of this Chapter shall upon conviction be assessed a fine of not less than five dollars (\$5.00) nor exceeding one hundred dollars (\$100.00). Every day that any such violation continues shall be construed as a separate violation. (CC 1974 §535.020; Ord. No. 148 §2, 5-7-70)