City of Carterville, Missouri

Code Book

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Section 630.050. License Limited To One Identifiable Type of Adult Use.
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Section 630.070. Examination of Application — Issuance of License — Disapproval.
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Section 630.130. Suspension, Revocation or Non-Renewal of License.
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Section 635.030. Use Regulations For Medical Marijuana Facilities.
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Section 700.020. Assessment and Collection of Rates for Water and Other Public Utility Services.
Section 700.030. Safety of City and Utility Company Employees.
Section 700.040. Entry Onto Premises Permitted.
Section 700.050. Prohibited Acts Generally.
Section 700.060. Protection From Damage.
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Section 700.080. Power of City To Condemn Private Property.
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Section 705.020. Prohibited Acts With Respect To City Water Services.
Section 705.030. Rates For Potable Water Service and Consumption.
Section 705.040. Monthly Billing For Potable Water.
Section 705.050. Connection Charge for New Services.

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Section 710.010. City Water Supply Cross-Connection Control — General Policy.
Section 710.020. Definitions.
Section 710.030. Cross-Connections Prohibited — Inspections Permitted.
Section 710.040. Protection Required.
Section 710.050. Prevention Devices — Installation.
Section 710.060. Inspection and Maintenance.
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Section 715.020. Monthly Sewer Charges. - Billing.
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Section 715.050. (201) User Charge.
Section 715.060. Rates Reviewed By City.
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Section 720.010. Definitions.
Section 720.020. Composition of City Sewer System.
Section 720.030. Sanitary Sewer System.
Section 720.040. Duties of City Engineer.
Section 720.050. Work To Conform To Applicable Plans, Specifications, Etc.
Section 720.060. Laying Sewers Through Private Property Restricted.
Section 720.070. Private Sewage Disposal Systems.
Section 720.080. Building Sewers and Connections.
Section 720.090. Use of The Public Sewers.
Section 720.100. Pretreatment.
Section 720.110. Penalties.
Section 720.120. Who Bears Cost of Construction and Maintenance.
Section 720.130. Regulations For Construction.
Section 720.140. Permit Required — Fees — Terms Upon Which Permit Issued.

Chapter 100. Government Code

Article I. City Boundaries — City Seal —Official City Time

Section 100.010. Boundaries of City.

The boundaries of the City shall be as shown on the map which is captioned "Official Map of Carterville, Missouri" which is and shall remain on file in the office of the City Clerk.

Section 100.020. City Seal.

A. *Description.* The official Seal of the City, commonly called "the City Seal", shall have on its face and around its margin the words "City of Carterville Jasper County, Missouri" and the inscription thereon “incorporated April 4, 1882”.

B. *City Clerk As Custodian.* The City Clerk shall be the custodian of the City Seal.

Section 100.030. Official City Time — Standard Time — Daylight-Saving.

A. United States standard time for the central zone in which the City is located shall be the official time of the City, provided, that during the period established by act of the United States as "daylight-saving time", such standard time shall be advanced one (1) hour and such time as so advanced shall be the official City time of the City, provided further, that the foregoing provision shall be of no force and effect if State law shall exempt the State from the provisions thereof pursuant to Section 260a, Title 15, of the United States Code.

B. *Applicability.* When reference is made to any time without qualification in this Code or other ordinance, resolution or order of the City Council, or in any official notice, advertisement or document of the City, or in any contract to which the City is a party, it shall be understood to refer to the official time of the City as described in Subsection (A).

Article II. General Code Provisions

Section 100.040. How Code Designated and Cited.

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

Section 100.050. Definitions and Rules of Construction.

In the construction of this Code and all other ordinances of the City, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any Section or ordinance, or unless inconsistent with the manifest intent of the City Council, or unless the context clearly requires otherwise.

AND, OR The word *"and"* shall be interpreted to mean *"or"* where the context so indicates, and vice versa.

CITY The words *"the City"* or *"this City"* shall mean the City of Carterville, Missouri.

CITY COUNCIL The words *"City Council"* or *"the Council"* shall mean the City Council of Carterville.

COMPUTATION OF TIME The time within which an act is to be done shall be computed by excluding the first (1st) and including the last day; and if the last day is Sunday or a legal holiday, that shall be excluded.

COUNTY The words *"the County"* or *"this County"* shall mean the County of Jasper, State of Missouri.

GENDER When any subject matter, party or person is described or referred to by words importing the masculine or feminine, the words shall be deemed to include both males and females, associations and bodies corporate, as well as individuals, unless the context clearly requires otherwise.

GENERAL RULE All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the City Council may be fully carried out.

GOVERNOR The Governor of the State of Missouri.

JOINT AUTHORITY Words importing joint authority to three (3) or more persons shall be construed as authority to a majority of such persons.

MAYOR The Mayor of Carterville, Missouri.

MONTH A calendar month.

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

OATH Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words *"swear"* and *"sworn"* shall be equivalent to the words *"affirm"* and *"affirmed"*.

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

PERSON May extend and be applied to bodies politic and corporate, and to partnerships and other unincorporated associations.

PRECEDING, FOLLOWING When used by way of reference to any section of the Statutes, mean the section next preceding or next following that in which the reference is made, unless some other section is expressly designated in the reference.

PROPERTY Includes real and personal property.

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

REAL PROPERTY The terms *"real property", "premises", "real estate"* or *"lands"* shall be deemed to be coextensive with lands, tenements and hereditaments.

SHALL, MAY The word *"shall"* is mandatory, and the word *"may"* is permissive.

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

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

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

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

TANGIBLE PERSONAL PROPERTY Includes money, goods, chattels, things in action and evidences of debt.

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

WRITING *"Written"* and *"in writing"* and *"writing word for word"* includes printing, lithographing, or other mode of representing words and letters, but in all cases where the signature of any person is required, the proper handwriting of the person, or his/her mark, is intended.

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

Section 100.060. Catchlines of Sections — Provisions Considered As Continuations of Existing Ordinances.

A. The catchlines of the several Sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the Section and shall not be deemed or taken to be titles of such Section, nor as any part of the Section, nor, unless expressly so provided, shall they be so deemed when any of such Sections, including the catchlines, are amended or re-enacted.

B. The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the adoption of "The Code of the City of Carterville, Missouri", shall be considered as a continuation thereof and not as new enactments.

Section 100.070. Severability of Parts of Code.

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

Section 100.080. Repeal of Ordinance Not To Affect Liabilities, Etc.

No offense committed and no fine, penalty or forfeiture incurred, or prosecution commenced or pending previous to or at the time when any statutory provision is repealed or amended, shall be affected by the repeal or amendment, but the trial and punishment of all such offenses, and the

recovery of the fines, penalties or forfeitures shall be had, in all respects, as if the provision had not been repealed or amended, except that all such proceedings shall be conducted according to existing procedural laws.

Section 100.090. Repeal Not To Revive Former Ordinance.

When a law repealing a former law, clause or provision is itself repealed, it does not revive the former law, clause or provision, unless it is otherwise expressly provided; nor shall any law repealing any former law, clause or provision abate, annul or in any way affect any proceedings had or commenced under or by virtue of the law so repealed, but the same is as effectual and shall be proceeded on to final judgment and termination as if the repealing law had not passed, unless it is otherwise expressly provided.

Article III. Penalty

Section 100.100. General Penalty.

A. Except as hereinafter provided, whenever in this Code or in any other ordinance of the City or in any rule, regulation or order promulgated pursuant to such Code or other ordinance of the City, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or in such other City ordinance, rule, regulation or order the doing of any act is required or the failure to do any act is declared to be unlawful, and where no specific penalty is provided therefor, the violation of any such provision of this Code or of any other ordinance of the City or of any rule, regulation or order promulgated pursuant to such Code or other City ordinance shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment for a period of time not exceeding three (3) months duration, or by both such fine and imprisonment.

B. Whenever any provision of the Revised Statutes of Missouri, or any other Statute of the State, limits the authority of the City to punish the violation of any particular provision of this Code or other City ordinance, rule, regulation or order promulgated pursuant thereto to a fine of less amount than that provided in this Section or imprisonment for a shorter term than that provided in this Section, then the violation of such particular provision of this Code or other City ordinance, rule, regulation or order shall be punished by the imposition of not more than the maximum fine or imprisonment so authorized or by both such fine or imprisonment.

C. Each day any violation of this Code or any other City ordinances or rule, regulation or order promulgated pursuant thereto shall continue shall constitute a separate offense, unless otherwise provided.

Article IV. Miscellaneous Provisions

Section 100.110. Convenience Charge For Transactions Made By Debit or Credit Card.

A. This Section establishing a convenience charge for all transactions made by debit or credit card in the Carterville Municipal Court, Water Department, City Administration, City Collector, Carterville Police Department and all other departments in the City of Carterville is hereby enacted as follows:

1. Convenience charges are collected by a third-party company and set by contract.

2. For any transaction made by debit or credit card within the Carterville Municipal Court, Water Department, City Administration, City Collector and all other departments within the City of Carterville, a debit/credit card convenience charge shall be as follows:

3. For payments made for cash bonds by debit or credit card within the Carterville Police Department, a debit/credit card convenience charge in the amount nine (9) percent of the bond amount shall be assessed for each transaction.

Chapter 105. Elections

Article I. In General

Section 105.010. Conformance of City Elections With State Law.

All City elections shall be conducted and held in conformance with the provisions of Chapter 115, RSMo.

Section 105.020. Date of Municipal Election.

A. A municipal election for the qualified voters of this City shall be held on the first (1st) Tuesday after the first (1st) Monday in April of each year.

B. On the first (1st) Tuesday after the first (1st) Monday in April of 2019 and every four (4) years thereafter, a municipal election of the qualified voters of the City of Carterville shall be held for the purpose of electing a Mayor who shall hold his/her office for a term of four (4) years and until his/her successor is elected and qualified.

C. On the first (1st) Tuesday after the first (1st) Monday in April of odd-numbered years, a municipal election of the qualified voters of the City of Carterville shall be held for the purpose of electing one (1) Council member from each ward who shall hold his/her office for a term of two (2) years and until his/her successor is elected and qualified.

D. On the first (1st) Tuesday after the first (1st) Monday in April of even-numbered years, a municipal election of the qualified voters of the City of Carterville shall be held for the purpose of electing one (1) Council member from each ward who shall hold his/her office for a term of two (2) years and until his/her successor is elected and qualified.

Section 105.030. Declaration of Candidacy — Dates For Filing.

Any person who desires to become a candidate for an elective City office at the general City election shall file with the City Clerk, not prior to the hour of 8:00 A.M., on the sixteenth (16th) Tuesday prior to, nor later than 5:00 P.M., on the eleventh (11th) Tuesday prior to the next City municipal election, a written declaration of his/her intent to become a candidate at said election. The City Clerk shall keep a permanent record of the names of the candidates, the offices for which they seek election, and the date of their filing, and their names shall appear on the ballots in that order.

Section 105.040. Candidates For Municipal Office — No Arrearage For Municipal Taxes or User Fees Permitted.

No person shall be a candidate for municipal office unless such person complies with the provisions of Section 115.306, RSMo., regarding payment of municipal taxes or user fees.

Section 105.050. Declaration of Candidacy — Notice To Public.

The City Clerk shall, on or before the sixteenth (16th) Tuesday prior to any election at which City offices are to be filled by said election, notify the general public of the opening filing date, the office or offices to be filled, the proper place for filing, and the closing filing date of the election. Such notification may be accomplished by legal notice published in at least one (1) newspaper of general circulation in the City.

Section 105.060. Declaration of Candidacy — Form.

The form of said written declaration of candidacy shall be substantially as follows:

DECLARATION OF CANDIDACY

I, _____, a resident and registered voter of **Ward** __of the City of Carterville, County of Jasper, State of Missouri, do declare myself a candidate for the office of **Councilman** to be voted for at the General election to be held on Tuesday April __, 20__ and I further declare that if nominated and elected to such office I will qualify.

_____ _____

IDENTIFICATION REQUIRED

Signature Date

Form _____

_____ _____

Birth date _____ Name to appear on ballot (print) _____

Address _____City, State, Zip _____

Section 105.070. Notice of Elections.

In City elections, the City Clerk shall notify the County Clerk prior to 5:00 P.M. on the tenth (10th) Tuesday prior to any City election except as noted in Section 115.125.1, RSMo. The notice shall be in writing, shall specify that the City Council is calling the election, the purpose of the election, the date of the election, and shall include a certified copy of the legal notice to be published including the sample ballot. The notice and any other information required by this Section may, with the prior notification to the election authority receiving the notice, be accepted by facsimile transmission prior to 5:00 P.M. on the tenth (10th) Tuesday prior to the election, provided that the original copy of the notice and a certified copy of the legal notice to be published shall be received in the office of the election authority within three (3) business days from the date of the facsimile transmission.

Article II. Wards

Section 105.080. Wards Established.

A. The wards, and the boundaries thereof of the City of Carterville, Missouri, shall be established as follows:

1. The First Ward shall be comprised of all that part of the City within the following described boundary: Everything west of a line starting at the northern city limits, continuing south on Tennessee to Gum and from Gum south on Kentucky to Highway 171.

2. The Second Ward shall be comprised of all that part of the City within the following described boundary: Everything west of Pine street to a line starting at the northern city limits, continuing south on Tennessee to Gum and from Gum south on Kentucky to Highway 171.

3. The Third Ward shall be comprised of all that part of the City within the following described boundary: Everything East of Pine street to the eastern city limits, south of Clay street. This ward will also include everything located south of Highway 171, alternatively known as Johnstown.

4. The Fourth Ward shall be comprised of all that part of the City within the following described boundary: Everything from Pine street to the eastern city limits and from Clay street to the northern city limits.

Chapter 110. Mayor and City Council

Article I. City Council — Generally

Section 110.010. Composition.

The City Council shall consist of eight (8) members, in addition to the Mayor, with two (2) Council members from each ward.

Section 110.020. Qualifications of Council Members.

No person shall be Council member unless he/she is at least twenty-one (21) years of age, a citizen of the United States, an inhabitant of the City for at least one (1) year next preceding his/her election, and a resident of the ward from which he/she is elected at least six (6) months next preceding his/her election.

Section 110.030. Council Member — Compensation.

A. Each Council member of the City shall receive compensation, a sum, as set by ordinance.

B. The City Clerk is hereby authorized and directed to take such action as is necessary to ensure that the compensation payments hereby authorized are properly made.

Section 110.040. Powers and Duties of Mayor and Council Generally.

The Mayor and Council of each City governed by this Chapter shall have the care, management and control of the City and its finances, and shall have power to enact and ordain any and all ordinances not repugnant to the constitution and laws of this State, and such as they shall deem expedient for the good government of the City, the preservation of peace and good order, the benefit of trade and

commerce, and the health of the inhabitants thereof, and such other ordinances, rules and regulations as may be deemed necessary to carry such powers into effect, and to alter, modify or repeal the same.

Section 110.050. President Pro Tem — Acting President Pro Tem.

At the first (1st) regular meeting of the City Council after the general City election each year, the Council shall elect one (1) of its members President Pro Tem who shall hold his/her office for the term of one (1) year and who, in the absence of the Mayor, shall preside at the meetings of the Council, provided, that in the absence of both Mayor and President Pro Tem, the Council hereby selects a member to serve as the Acting President Pro Tem. In the absence of Mayor and President Pro Tem, the Council may elect one (1) of its members present to preside at such meeting who shall be styled "Acting President Pro Tem" and, provided further, that should the office of President Pro Tem become vacant, then the Council may at any regular meeting elect a President Pro Tem who shall fill the unexpired term.

Section 110.060. Committees.

A. At the first (1st) regular meeting of the City Council after the general City election each year, and at other meetings following the occurrence of a vacancy on a committee or the creation of a new committee, the Mayor, subject to approval of the City Council, shall appoint the membership of such committees as may be established by resolution of the City Council.

B. The City Council may, by resolution, provide for such standing and special committees as it may consider desirable to facilitate the transaction of its business and prescribe for the organization powers and duties thereof.

Section 110.070. Council To Publish Semi-Annual Statements.

The Council may publish a full and detailed statement of the receipts and expenditures and indebtedness of the City at the end of each fiscal year and shall hold such report available in the office of the city clerk.

Section 110.080. Action On Claims Against City — Generally.

No bill against the City for supplies or services rendered to or for the City or any of its departments, offices or agencies or for money for salaries and wages of City Officers and employees shall be certified as correct and approved by the Finance committee, unless such bill shall have been in the office of the City Clerk on or before Friday next preceding the meeting of the Council at which said bills against the City are allowed.

Section 110.090. Action On Claims Against City — Public Works.

No work of whatever nature, including the construction of sidewalks and crosswalks, location of trees and poles, the construction of curbs and gutters and public or district sewers, the establishment of property lines or any other work of a public nature whatsoever, shall be accepted and paid for by the Finance Committee until the City Administrator states that the work has been satisfactorily and accurately done in accordance with the ordinances regulating such work and the contract entered into for the performance thereof. This provision shall not apply to public works projects, the total cost of which does not exceed one thousand dollars ($1,000.00).

Article II. Mayor

Section 110.100. Qualifications For Office.

No person shall be Mayor unless he/she be at least thirty (30) years of age, a citizen of the United States and a resident of the City at the time of and for at least two (2) years next preceding his/her election.

Section 110.110. Mayor To Be President of Council — Vote.

The Mayor shall be President of the Council and shall preside over same, but shall not vote except in case of a tie in said council, when he/she shall cast the deciding vote; but provided, however, that he/she shall have no such power to vote in cases when he/she is an interested party. He/she shall have the superintending control of all the officers and affairs of the City, and shall take care that the ordinances of the City and the State laws relating to such City are complied with.

Section 110.120. May Remit Fines, Commute Sentences, Etc.

The Mayor shall have power to remit fines and forfeitures and to grant reprieves and pardons for offenses arising under this Code and other ordinances of the City; but this Section shall not be so construed as to authorize the Mayor to remit any costs which may have accrued to any officer of the City by reason of any prosecution under State law, this Code or other ordinance of the City. Whenever the Mayor shall conclude to remit any fine or commute any sentence of imprisonment or labor for imprisonment, he/she shall execute and deliver to the Municipal Judge an order for such remittal or communication, which order shall contain the title of the cause, a brief recital of the judgment of the Municipal Judge, and shall state explicitly in what manner such judgment is charged.

Section 110.130. Mayor Shall Communicate To The Council, What.

The mayor shall, from time to time, communicate to the council such measures as may, in his/her opinion, tend to the improvement of the finances, health, security, ornament, comfort and general prosperity of the City.

Section 110.140. Mayor May Require Officers To Exhibit Accounts.

The Mayor shall have power to require, as often as he/she may deem it necessary, any officer of the City to exhibit his/her accounts or other papers or records and to make a report to the City Council in writing touching any subject or matter pertaining to his/her office.

Section 110.150. Execution and Delivery of Deeds and Conveyances.

The Mayor shall, when properly authorized by the City Council, sign, execute and deliver all deeds or conveyances for any real estate which the City may sell to any purchaser thereof.

Section 110.160. Control Over Police Force — Appointment of Extra Policemen.

The Mayor shall have power, in cases of emergency or upon occasions of any public assemblage within the City, to appoint one (1) or more extra licensed Policemen to act during the continuance of such emergency or of such assemblage, if in his/her judgment the safety of the citizens and the peace and good order of the City require it.

Section 110.170. Vacancy in Office of Mayor, How Filled, Exceptions — President Pro Tem, Duties of.

When any vacancy shall happen in the office of Mayor, by death, resignation, removal from the City, removal from office, refusal to qualify or otherwise, nominations of a successor may be made by any member of the Council and selected with the consent of a majority of the members of the Council. The Council may adopt procedures to fill any such vacancy consistent with this section. In the case of a temporary absence of the mayor or disability to perform the duties of his/her office, the President Pro Tem of the Council shall perform the duties of Mayor until the Mayor shall return or such disability be removed; and during the time the President Pro Tem of the Council shall act as Mayor, the President Pro Tem shall receive the same compensation that the Mayor would be entitled to.

Section 110.175. Impeachment and Removal of Mayor.

The City Council or any member thereof may at any time prefer charges against the Mayor for any of the causes set out in this Chapter, and the Council shall at once proceed to investigate and decide the charges in the same manner as in Article III of this Chapter provided in cases of suspended officers. During such investigation it shall be unlawful for the Mayor to preside at the meetings of the City Council, and should he/she be found guilty of any or all the charges preferred against him, the Council shall, by resolution affirmatively adopted by two-thirds (2/3) of all elected members to the Council, remove him/her from office and declare his/her office vacant; and the President Pro Tem shall immediately take the necessary steps to fill such vacancy.

Article III. Meetings, Rules and Procedures of Council

Section 110.180. Rules.

A. The City Council may by resolution adopt and enforce such rules not inconsistent with this Code or State law as may be necessary to assure the expedition of its business. Parliamentary proceedings of the City Council not provided for in such rules shall be regulated by Robert's Rules of Order except where contrary to the manner and form provided for by this Code or State Statutes.

B. Rules adopted pursuant to Subsection (A) of this Section may be temporarily suspended by a vote of two-thirds (2/3) of all the members elected to the City Council but shall not be repealed, altered or amended except by ordinance.

Section 110.190. Time and Place of Regular Meetings.

The City Council of the City shall convene no less than once per month to conduct city business. Meeting date and time should be agreed upon by consensus of the Council and keep consistent to allow attendees as well as Councilpersons to avoid conflicts in scheduling. Whenever any such day shall fall on a City holiday, the meeting shall be held on the next succeeding business day, unless otherwise provided.

Section 110.195. Invocations and Observances.

The City Council of the City of Carterville, Missouri that the City Council does hereby adopt the following written policy regarding opening invocations before meetings of the City Council, to wit:

1. In order to solemnize proceedings of the City Council, it is the policy of the City Council to allow for an invocation or prayer to be offered at its meetings for the benefit of the City Council and the community.

2. The prayer shall not be listed or recognized as an agenda item for the meeting so that it may be clear the prayer is not considered a part of the public business.

3. No member of the City Council or City employee or any other person in attendance at the meeting shall be required to participate in any prayer that is offered.

4. The prayer shall be voluntarily delivered by an eligible member of the clergy/religious leader in the City of Carterville. To ensure that such person (the "invocational speaker") is selected from among a wide pool of the (jurisdiction's) clergy/religious leaders, on a rotating basis, the invocational speaker shall be selected according to the following procedure:

a. The City staff shall compile and maintain a database (the "Congregations List") of the religious congregations with an established presence in Carterville.

b. The Congregations List shall be compiled by referencing the listing for "churches," "congregations," or other religious assemblies in the annual Yellow Pages phone book(s) published for the City of Carterville, research from the Internet, and consultation with local chambers of commerce. All religious congregations with an established presence in the local community of Carterville are eligible to be included in the Congregations List, and any such congregation can confirm its inclusion by specific written request to the Clerk.

c. The Congregations List shall be updated, by reasonable efforts of the City staff in November of each calendar year.

d. Within thirty (30) days of the effective date of this policy, and on or about December 1 of each calendar year thereafter, the City shall mail an invitation addressed to the "religious leader" of each congregation listed on the Congregations List, as well as to the individual chaplains included on the Congregations List.

e. The invitation shall be dated at the top of the page, signed by the City Administrator at the bottom of the page, and read as follows:

Dear religious leader,

The City Council makes it a policy to invite members of the clergy in the City of Carterville to voluntarily offer a prayer before the beginning of its meetings, for the benefit and blessing of the City Council. As the leader of one of the religious congregations with an established presence in the local community of the City of Carterville, or in your capacity as a chaplain for one of the fire departments or law enforcement agencies of the City of Carterville, you are eligible to offer this important service at an upcoming meeting of the City Council. If you are willing to assist the City Council in this regard, please contact city hall at your earliest convenience to the address included on this letterhead. Clergy are scheduled on a first-come, first serve or another random basis. The dates of the City Council's scheduled meetings for the upcoming year are listed on the following, attached page. If you have a preference among the dates, please state that request in your reply. This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience.

To maintain a spirit of respect and ecumenism, the City Council requests only that the prayer opportunity not be exploited as an effort to convert others to the particular faith of the invocational speaker, nor to disparage any faith or belief different than that of the invocational speaker. On behalf of the City Council, I thank you in advance for considering this invitation.

Sincerely, City Administrator

f. Consistent with paragraph 6 hereof and, as the invitation letter indicates, the respondents to the invitation shall be scheduled on a first-come, first-serve or other random basis to deliver the prayers.

g. If the selected invocational speaker does not appear at the scheduled meeting, the Mayor may ask for a volunteer from among the Council or the audience to deliver the invocation.

5. No invocational speaker shall receive compensation for his or her service.

6. The City shall make every reasonable effort to ensure that a variety of eligible invocational speakers are scheduled for the City Council meetings. In any event, no invocational speaker shall be scheduled to offer a prayer at consecutive meetings of the City Council, or at more than three (3) City Council meetings in any calendar year.

7. Neither the City Council nor the City staff shall engage in any prior inquiry, review of, or involvement in, the content of any prayer to be offered by an invocational speaker.

8. Shortly before the opening gavel that officially begins the meeting and the agenda/business of the public, the Mayor shall introduce the invocational speaker and the person selected to recite the Pledge of Allegiance following the prayer and invite only those who wish to do so to stand for those observances with the City Council.

9. This policy shall be intended for any Boards and Commissions for the City of Carterville, Missouri.

10. This policy in not intended and shall not be implemented or construed in any way, to affiliate the City Council with, nor express the City Council's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the City Council's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of Carterville.

Section 110.200. How Special Meetings Called — Limitation On Business At Special Meetings.

Whenever the Mayor shall deem it necessary to call a special meeting of the City Council for the transaction of any business, or whenever any two (2) members of the Council shall petition him/her in writing or in any other satisfactory way to do so, he/she shall issue a call for such special meeting, which shall be in writing and state the purpose for which such meeting is called and the time and place of the meeting, and file such call with the City Clerk. The City Clerk shall notify each member of the Council and post and deliver such other notice as required by law. No business other than that clearly specified in such call and written notice shall be transacted at such special meeting.

Section 110.210. Members To Attend Meetings — Compelling Attendance of Absentees.

A. It shall be the duty of each member of the City Council to be present at each meeting of the Council, unless leave of absence be granted, or he/she be sick and unable to attend.

B. Upon a roll call of the City Council, the names of the members shall be called by wards, the absentees noted, and those who do not appear may be sent for by the Mayor upon an order to the Chief of Police or other messenger who may take the absentees into custody wherever found and compel their attendance at the session of the Council.

C. In the event a Council member or appointee of any City Board does not attend three (3) consecutive Council or Board meetings or does not attend at least seventy-five percent (75%) of the Council or Board meetings scheduled during any six (6) month period of time, and such absences are not approved by the Council or Board upon request of the member who is absent from such meetings, then the City Clerk must notify the Mayor of such fact in writing.

D. Upon receiving such written notice as is required under Subsection (C), the Mayor shall notify the individual Council or Board member that a public hearing will be held at which time the Council will determine whether said individual shall be removed from office.

E. At the public hearing required under Subsection (D), the Mayor shall make the facts of the case known and shall put the following question to a vote of the Council: "Shall the member be removed from office for violating attendance requirements of the City Code?"

Section 110.220. Quorums — Compelling Attendance When Quorum Not Present.

A majority of all the members elected to the City Council shall constitute a quorum for the Council to do business, but any lesser number may adjourn to another time or send for absent members in the same manner as provided for the Mayor in Section 110.210.

Section 110.230. Members Excused from Attendance – Quorum Broken.

A. Council members may excuse themselves during a meeting to attend to personal needs, however if the absence of that member fails to allow for a quorum, then the meeting must be suspended until such time a quorum is once again met.

B. The Mayor may temporarily excuse any member of the City Council, but no member shall be permitted to leave the meeting of the Council without permission of a majority of all members present.

Section 110.240. Conduct of Council Meetings.

A. A City Police Officer shall attend all meetings.

B. Meetings of the City Council will be guided by best practices from "Robert's Rules of Order" when conducting business.

C. The Mayor of the city shall direct the meeting and set the agenda.

D. *This section shall not apply to any subject of business scheduled for a public hearing.*

Section 110.250. Recording of "Ayes" and "Nays".

A. The City Clerk shall keep a journal of the proceedings of the City Council and the "ayes" and "nays" of the members shall be entered on any question at the desire of any two (2) members or at the sole discretion of the Mayor.

B. On taking the "ayes" and "nays" of any question, the names of the members shall be called and each member shall answer from his/her seat, and the absentees shall be noted.

C. In tallying all roll call votes taken by the City Council for action on approval of ordinances, bills, resolutions, mayoral appointments or otherwise, a Council member who is present but who abstains or who otherwise fails to vote "yes" or "no" shall be considered to have not voted on the proposed

ordinance, bill, resolution, mayoral appointment, or other request for council action, and such vote shall not be counted as a vote cast either "yes" or "no".

Section 110.260. Recorded Roll Call Vote Required To Give Consent To Mayor's Appointments — Vote Required To Give Consent.

The consent of the City Council to appointments by the Mayor or City Administrator of City Officers shall be by roll call and shall be entered on the journal of the Council proceedings; and in all cases it shall require a majority vote of the members elected to the City Council to give the consent of the Council to any such appointment.

Section 110.270. Style of Ordinances — Procedure To Enact.

The style of the ordinances of the City shall be: "Be it ordained by the Council of the City of Carterville, as follows: "No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the Council shall vote therefor, and the "ayes" and "nays" shall be entered on the journal. Every proposed ordinance shall be introduced to the Council in writing and shall be read by Title or in full two times prior to passage, both readings may occur at a single meeting of the Council. If the proposed ordinance is read by Title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the Council. No bill shall become an ordinance until it shall have been signed by the officer presiding at the meeting of the Council at which it shall have been passed. When so signed, it shall be delivered to the mayor for his/her approval and signature, or his/her veto.

Section 110.280. First Reading of Bills — Amendments.

Following the first (1st) reading of a bill and before the vote thereon, amendments may be offered and shall be adopted upon affirmative vote of a majority of those present. If amendments are adopted, the bill shall be read as amended.

Section 110.290. Appropriation of City Funds — General Appropriations Do Not Authorize Issuance of Checks For Expenditures.

The City Council may, by ordinance, appropriate funds in the Treasury, or which may thereafter come into the Treasury through any source of revenue for the current year, for such specific purposes as may be made in such appropriation ordinance, but such general appropriation shall not authorize the issuance of checks upon the City Treasury for any portion of the amounts therein named, and checks on the City Treasury in payment of such general appropriations, or such portions thereof as the City Council may from time to time desire to have paid, shall be issued by the Mayor and City Clerk only when authorized by ordinance, resolution or bill. Appropriation bills or resolutions shall be passed by the City Council at the regular meetings of the Council in each month, and at no other time, and may be passed upon one (1) reading only.

Section 110.300. Mayor May Veto Resolutions and Orders.

The Mayor shall also have the power to veto any resolution or order of the Council which calls for or contemplates the expenditure of the revenues of the City. Such vetoes shall be noted on the journal of the Council, and shall be effective and binding unless the Council, at a subsequent session thereof, general or special, shall pass said resolution or order by a vote of three-fourths (¾) of all the members elected to the Council.

Section 110.310. Adoption of Resolutions, Orders and Motions.

In order for any resolution, order or motion to be adopted, it must be passed by a majority of the members present at such Council meeting.

Section 110.320. When Committee Reports To Be in Writing.

Reports of committees, if so requested by the Mayor or any Council member, shall be presented in writing and signed by the member presenting the report.

Chapter 115. City Officers

Article I. General Provisions

Section 115.010. Election, Appointment and Term of Officers.

A. In accordance with Section 77.400, RSMo., the "officers" of the City shall include any person holding any situation under the city government or any of its departments, with an annual salary, or for a definite term of office, other than clerical or professional staff.

B. The following officer shall be elected by the voters of the City: Mayor.

C. At the first (1st) regular meeting of the City Council after a general election at which time the Mayor is elected, the Mayor shall, with the consent of a majority of all the members elected to the City Council, appoint the City Attorney and Municipal Judge. If so appointed, he/she shall serve at the pleasure of the mayor and council.

D. If an elective office is changed by ordinance to an appointive office, the appointment shall occur at the next regular Council meeting after the effective date of the ordinance or as soon thereafter as practicable.

F. Pursuant to Section 77.046, RSMo., Upon the adoption of a city administrator form of government, the governing body of the city may provide that all other officers and employees of the city, except elected officers, shall be appointed and discharged by the city administrator, but the governing body may make reasonable rules and regulations governing the same.

Section 115.020. When Elective Officers Entitled To Take Office.

At the first (1st) regular meeting of the City Council after any general election, election for Council member or any special election, the persons holding certificates of election to any elective office in the City shall present their certificates of election, accompanied with their oath of office, whereupon they shall be entitled to their seats; but no person shall hold or exercise the duties of any office under the general laws governing Cities of the Third Class, this Code or other ordinance of the City until he/she shall have fully complied with every requirement with reference thereto.

Section 115.030. Oath of Office.

Every officer of the City and his/her assistants and every Council member, before entering upon the duties of his/her office, shall take and subscribe to an oath or affirmation before some court of record in the County, or the City Clerk or Municipal Judge, that he/she possesses all the qualifications prescribed for his/her office by law, and that he/she will support the Constitution of the United States and of the State of Missouri, the provisions of all laws of this State affecting Cities of the Third Class,

and the provisions of this Code and other ordinances of the City and faithfully demean himself/herself in office, which official oath or affirmation shall be filed with the City Clerk.

Section 115.040. Official Bonds — of Whom Required — Conditions — Amounts — Sureties — When and Where Filed — Blanket Bond Authorized.

A. Each officer mentioned in this Section, and each other employee or officer when so required by State law, this Code or other ordinance, shall within fifteen (15) days after his/her election or appointment, and before entering upon the discharge of the duties of his/her office, give bond to the City in such sum and with such corporate sureties as shall be approved by the City Council, conditioned for the faithful performance of his/her duty, that he/she will pay over all money belonging to the City, as provided by law, that may come into his/her hands, and that he/she will, at the expiration of his/her term of office, turn over to his/her successor in office, or to the proper officer of the City, all money, books, papers and property of whatever nature belonging to the City in his/her custody.

B. Pursuant to Subsection (A) of this Section the City Council hereby requires that the officers named in this Subsection shall give bond, with corporate surety by an insurance or bonding company authorized to do business in this State, in amount as follows: City Collector, twenty-five hundred dollars ($2,500.00); City Treasurer, five thousand dollars ($5,000.00); and Mayor and City Clerk, one thousand dollars ($1,000.00).

C. The bonds of all officers and employees, after being duly approved by the Mayor and City Council, shall be filed with the City Clerk and shall be safely kept by him/her.

D. The City Council is hereby authorized in lieu of the above provisions to provide for the blanket bonding or insuring against loss from all City Officers and employees, including members and employees of City boards and commissions, who in the course of official duty at any time have possession or custody of money, securities or negotiable instruments due or belonging to the City, in an amount not less than twenty-five thousand dollars ($25,000.00) and conditioned as provided in Subsection (A) of this Section; and any officer or employee covered by such bond or insurance need not be bonded individually.

Section 115.050. Official Bonds — Required Approval — When Additional Security May Be Required — Mayor's Duty If Required Additional Surety Not Given.

A. The attorney for the City shall examine all official bonds or insurance certificates and, when satisfied as to their form, shall present them to the Mayor promptly.

B. The Mayor shall examine all official bonds or insurance certificates presented to him/her, and when satisfied that they are in all respects sufficient, he/she shall approve them, subject to the approval of the City Council. Such approval shall be in writing, endorsed and signed by the Mayor; and whenever during the term of such officer the Mayor shall become satisfied that the surety on the bond or insurance coverage of such officer has from any cause become impaired, he/she shall require such officer to give additional security forthwith; and if such officer shall fail, neglect or refuse to give additional security, it shall be the duty of the Mayor, with the consent of the City Council, to remove such officer and take the necessary and proper steps for filling the vacancy caused thereby.

Section 115.060. Failure To Take Required Oath or Give Required Bond Vacates Office — Suits On Official Bonds.

If any person elected or appointed to any office shall fail to take and subscribe the oath or affirmation, or to give bond if by this Article required, his/her office shall be deemed vacant. For any breach of condition of any such bond or policy, suit may be instituted thereon by the City, or by any person in the name of the City, for use of such person. If the person nominated or appointed fails to take the oath or give bond at the next scheduled Council meeting or special meeting called for such purpose following the person's election or appointment, but has made written request of the Council for additional time to do so, the Council may grant an extension of time, provided that such extension shall not exceed thirty (30) days.

Section 115.070. Commissions and Warrants.

The Mayor shall sign the commissions and appointments of all officers elected or appointed in the City and shall cause the City Clerk to attest the same and affix the Seal of the City thereto.

Section 115.080. Cooperation With Budget Officer Required.

All officers and employees of the City shall cooperate with and provide to the budget officer such information and such records as he/she shall require in developing the budget.

Section 115.090. Duty To Render Reports — Failure To Make Required Report As Grounds For Removal From Office.

It shall be unlawful for any officer to fail or refuse to make any report required by State law, this Code or other ordinance or whenever required to do so by the Mayor or City Council, and such failure or refusal shall be considered good cause for his/her removal from office.

Section 115.100. Failure To Pay Money Due City Forfeits Office — Interest — Suit By City — Annual Report of Receipts and Expenditures.

A. Any failure on the part of any City Officer to pay into the Treasury of the City the balance reported by the Mayor or the Finance Committee to be due from him/her to the City upon the adjustment of his/her account shall cause a forfeiture of his/her office, and such balance shall bear interest at nine percent (9%) per annum from the time it should have been accounted for until it shall have been paid into the Treasury. The Mayor shall immediately order suit to be commenced in the proper court against the delinquent officer or his/her bondsmen or insurer for such balance.

B. It shall be the duty of the officers of the City to report annually to the City Council, which report shall embrace a full statement of the receipts and expenditures of their respective offices, and such other matters as may by the Council be required.

Section 115.110. Resignation Procedure.

Any officer, employee or person desiring to resign his/her office or employment under the City shall do so in writing. Each resignation shall be addressed to the Mayor and City Council, and may be placed in the hands of the Mayor or City Administrator, and shall be submitted to the City Council at the first (1st) meeting after it is received. The City Council shall immediately take action thereon, and no office or position shall be deemed vacant until such resignation has been duly accepted by the City Council.

Section 115.120. Removal or Suspension From Office.

A. The Mayor may, with the consent of a majority of all the members elected to the City Council, remove from office, for cause shown, any elected officer of the City, such elected officer being first

given the opportunity, together with his/her witnesses, to be heard before the Council sitting as a court of impeachment. Any elected officer may, in like manner, for cause shown, be removed from office by two thirds (2/3) vote of all members elected to the City Council, independently of the Mayor's approval or recommendation. The Mayor may, with the consent of a majority of all the members elected to the Council, remove from office any appointive officer of the City at will; and any such appointive officer may be so removed by a two-thirds (2/3) vote of all the members elected to the Council, independently of the Mayor's approval or recommendation. The Council may pass ordinances regulating the manner of impeachment and removals.

B. Suspension from office shall be effected by an order filed by the Mayor in the office of the City Clerk, accompanied by a statement of the charges upon which the suspension is founded, a copy of which shall be forthwith made by the City Clerk and delivered to the Mayor's designee who shall forthwith deliver it to the officer suspended; and it shall be unlawful for any City Officer during suspension from office to attempt to perform any official duty.

C. Whenever any elected officer shall have been suspended as provided in this Section, the Mayor shall lay such charges before the City Council at its first (1st) meeting after such charges are made; and the Council shall without unnecessary delay proceed to investigate such charges upon a day to be by them fixed. The City Clerk shall thereon make out a certified copy of such charges together with a notice of the day fixed by the Council for hearing thereon, which certified copy and notice shall be served upon the suspended officer in the usual manner provided by law for serving legal papers.

D. Upon the day fixed by the City Council to hear evidence on charges preferred against a suspended officer, the Council shall proceed, according to such rules as they may adopt to hear the evidence against and in favor of the accused, adjourning from time to time as may be necessary until they hear all pertinent evidence which is available.

E. Upon any such trial, the accused shall be entitled to be heard by himself/herself, or by counsel in his/her defense, and the City Attorney, or the person acting as such, shall attend the trial and prosecute on behalf of the City.

F. Within three (3) days after the evidence shall have been taken, the City Council shall vote by "ayes" and "nays" upon the charges separately. The question upon each charge shall be: "Is the accused guilty?" If the Council by a majority vote of all the members elected finds the accused guilty of the charges, such elected officer shall by a resolution be removed from office and his/her office be declared vacant, and the Mayor shall thereupon cause such vacancy to be filled as provided in this Article.

Section 115.130. City Administrator May Suspend, Demote or Discharge City Employees.

The City Administrator shall have the authority to suspend without pay, demote or discharge for misbehavior, inefficiency or incompetency any of the appointed officers or employees of the City.

Section 115.140. How Vacancies Filled — Elective and Appointive Officers.

A. If a vacancy occurs in any elective office other than that of Mayor, the Mayor or the person exercising the office of the Mayor shall recommend a person to fill the vacancy. The Council shall approve the person recommended by the Mayor. The successor shall serve until the next regular election.

B. If a vacancy occurs in any office not elective, the Mayor shall appoint a suitable person to discharge the duties of such until the first (1st) regular meeting of the City Council thereafter, at which time such vacancy shall be permanently filled.

Section 115.150. Transfer of Records and Property To Successor.

It shall be the duty of each City Officer to keep carefully and neatly all books, papers and property belonging to his/her office and at the expiration of his/her term of office to deliver them in good order to his/her successor in office.

Section 115.160. Receipt of Records and Property From Predecessor.

Each City Officer shall receive from his/her predecessor in office all books, papers and other property belonging to the City and appertaining to his/her office, giving duplicate receipts therefor, one (1) of which he/she shall file in the office of the City Clerk.

Article II. City Administrator

Section 115.170. Office Established — Appointment and Removal.

The office of City Administrator is hereby created pursuant to Section 77.042, RSMo. The City Administrator may be appointed and discharged by the Mayor with the consent of a majority of all the members elected to the Council. The City Administrator must reside within a reasonable driving distance of the City while serving as City Administrator and must meet such other qualifications as may be set by Statute or ordinance.

Section 115.180. Powers and Duties — Ex Officio Positions.

A. The duties of the City Administrator, if appointed, subject always to the direction and control of the Mayor and council, shall be as follows:

1. He/she shall be the purchasing agent of the City and all purchases shall be made under his/her direction and supervision and in accordance with bid specifications.
2. He/she shall be the budget officer of the City. He/she shall be responsible for preparing the annual budget for submission and transmitted to the Mayor and City Council and shall perform the duties prescribed for budget officers as set out in Chapter 67, RSMo.
3. He/she shall make report to the Mayor and Finance Committee relative to the financial conditions of the City in respect to the City budget and recommend actions to benefit the overall assets of the city.
4. He/she shall, coordinate the supervision and operation of all departments of the City and, with the written approval of the Mayor, assign the employees of the City to any department as they are needed for discharging the functions of the City departments.
5. He/she shall maintain liaison with all the City's boards, commissions and committees to help coordinate the work thereof.
6. He/she shall attend all meetings of the City Council.
7. He/she shall coordinate Federal aid programs which may have application to the City.
8. He/she shall attend State and regional conferences and programs applicable to the City.

9. He/she shall be responsible for keeping the public informed in the purposes and methods of the municipal government through all available news media.

10. He/she shall cause to be mailed to the Mayor and City Council members a proposed agenda for each City Council meeting on the Friday preceding each Council meeting.

11. He/she shall perform related work as required and other duties or functions prescribed by the Mayor and the City Council.

12. He/she shall employ and discharge employees of the City as he/she has authority so to do pursuant to Statute and ordinance.

Section 115.190. Powers and Duties — Delegation of Duties.

If the office of City Administrator is not filled, his/her duties shall be performed by the Mayor or, where State law allows, delegated by the Mayor to other officers or employees of the City.

Article III. City Clerk

Section 115.200. Knowledge of Bookkeeping Required — Lack of Bookkeeping Knowledge Vacates Office.

No person shall be eligible for the office of City Clerk who does not possess a knowledge of bookkeeping; and whenever it shall appear to the satisfaction of the City Council that an incumbent City Clerk does not possess such knowledge, the Council shall declare the office vacant.

Section 115.210. Powers and Duties — Generally.

A. The City Clerk shall have the custody of all ordinances, papers and records of the City and shall furnish certified copies thereof when required by the City Council or by officers of the City in the regular discharge of their duties; and he/she shall, among other duties, keep the journal of the proceedings of the Council; and he/she shall not keep his/her office at any other place in the City than at or adjacent to the Council Chamber, where he/she shall be each day a sufficient length of time to transact any business that may be presented; and he/she shall not remove from his/her office any books of the City with the purpose of establishing an office at any other place in the City.

B. The City Clerk shall keep and preserve all books and papers belonging to his/her office, filed and indexed in convenient form, and shall safely keep all deeds and papers showing the title of the City to any property, and all bonds given by any City Officer and contracts to which the City is a party.

C. The City Clerk shall file all ordinances and resolutions passed by the City Council, and the files containing such records shall be kept properly indexed and labeled.

D. The City Clerk shall cause all ordinances, resolutions, financial statements and other notices to be published when such publication is specially required by Statute, this Code or other ordinance or when such publications are specifically ordered by the City Council. He/she shall superintend the printing of all such ordinances, resolutions and examine and correct the proof thereof.

E. The City Clerk shall prepare all City Officers' commissions which the Mayor is required to sign and countersign them, affix the Seal of the City thereto, and keep a record of all commissions and the official oaths and bonds of the City Officers.

F. The City Clerk shall affix the City Seal to all public instruments or official acts of the Mayor which by law, this Code or other ordinance are required to be attested by the City Seal.

G. The City Clerk shall attend all regular and special meetings of the City Council and shall take and type into permanent form the minutes of those meetings.

H. The City Clerk shall aid all City inspectors and the City Code Enforcement Officer by conducting any research required by them and by acting as liaison between inspectors and officers and the public.

I. The City Clerk shall answer questions from the public concerning new businesses and zoning regulations and shall note complaints from residents for forwarding to the appropriate official.

J. The City Clerk shall work with the various boards of the City and shall record, type and distribute minutes to committee members, take applications for special use permits, carry out any needed advertising and set up public meetings as needed, send any needed correspondence, take applications for employment for City positions from applicants, and act as liaison between the various boards and the residents of the City.

K. The City Clerk shall work with and assist the attorney for the City in carrying out his/her various duties.

L. The City Clerk shall accept nominations for candidates and help with any and all other matters as needed to carry out the election.

M. Among his/her other duties, the City Clerk shall:

1. Aid in issuing building permits.

2. Obtain information requested by the City Council.

3. Execute contracts as directed by the City Council.

4. Work with appropriate City Officials concerning the City's relationship with various Federal and State agencies.

N. The City Clerk shall carry out any other duties delegated to him/her by the City Administrator or Mayor.

O. The setting forth of specific duties and powers of the City Clerk herein shall be an extension of, rather than limitation of, those duties normally carried out by a City Clerk and as further set forth by Statute.

Section 115.220. Removal of Records From City Clerk's Office.

The City Clerk shall not permit any records or documents in his/her charge to be removed from his/her office except for some City Officer entitled to the use thereof or for the inspection of the City Council.

Article IV. City Attorney

Section 115.230. Qualifications For Office.

No person shall be eligible to the office of attorney for the City who is not licensed to practice law in the State of Missouri at the time of his/her appointment, and who continuously thereafter while in office is licensed to practice law in the State of Missouri.

Section 115.240. Powers and Duties.

A. In addition to the duties imposed upon him/her by State law governing Cities of the Third Class, the attorney for the City shall prepare all charges and complaints against the parties for violations of this Code and other City ordinances and appear before the Municipal Judge when necessary and prosecute all offenders against the laws and ordinances of the City. The City Attorney may delegate prosecutorial duties to another qualified attorney.

B. The attorney for the City shall prosecute and defend all suits originating or pending in any court in the State in which the City may be a party, unless otherwise specifically provided for.

C. The attorney for the City shall defend all actions brought against any officer, servant or agent of the City on account of his/her official acts, except in cases in which the City is an instigating party.

D. The attorney for the City shall make affidavit on behalf of the City in all cases where such may be necessary in procuring changes of venue, continuances or taking an appeal and shall report to the City Council the condition of all suits pending in any court at the next meeting of the Council after the adjournment of court.

E. The attorney for the City shall advise the City Council or its committees, or any City Officer, on such legal questions as may arise in relation to business of the City, and he/she shall furnish written opinions, when requested, to the Mayor or City Council; and he/she shall draw up all ordinances when requested to do so by any committee of the Council and give any such committee his/her opinion in writing, if requested, upon all questions of law submitted to him/her by such committee.

F. The attorney for the City shall, in condemnation proceedings by the City, prepare all legal papers connected therewith and see that all notices, returns thereon, decisions of juries and all other matters are made out in legal form and in accordance with the ordinances of the City and laws governing Cities of the Third Class.

G. The attorney for the City shall attend regular meetings of the City Council upon request, and when directed by a majority of the City Council, any special meetings of the City Council, unless leave of absence be granted by the Mayor for good cause shown, or he/she be sick and unable to attend.

Section 115.250. Authority of City Council To Employ Additional Counsel For Litigation or Otherwise.

In any suit or action at law or in equity brought by or against the City, except in the Municipal Court, or for other legal services, the City Council may by resolution employ attorneys and pay them a reasonable fee for services.

Section 115.260. Employment of Another Attorney When Attorney For The City Temporarily Unable To Attend Court.

Whenever the attorney for the City shall, by reason of temporary absence, sickness or other cause, be unable to attend any court or trial of any cause, he/she may, with the consent and approval of the Mayor, appoint some competent lawyer to act in his/her stead during his/her temporary disability.

Article V. City Treasurer

Section 115.270. City Treasurer — Duties Generally.

The City Treasurer shall receive and safely keep all money of the City which may come into his/her hands and shall disburse such money only upon checks properly drawn. He/she shall keep in a set of

books, provided for that purpose, a full and accurate account of all money received and disbursed by him/her on behalf of the City, specifying the date of receipt or disbursement, from whom received, to whom disbursed and on what account received or disbursed. He/she shall keep a separate account of each fund and appropriation and the debits and credits belonging thereto. He/she shall keep a register of all checks by their date, number, name of payee and amount, specify the time of receipt thereof, from whom received and on what account.

Section 115.280. City Treasurer May Be Appointed — Duties Delegated.

A. The City Council has, by ordinance, provided for the appointment rather than election of the City Treasurer.

B. At the request of the Mayor or City Council, unless otherwise specifically required by State law, certain duties of the City Treasurer may be delegated to City administrative department personnel.

Section 115.290. City Treasurer — Monthly Report.

A. It shall be the duty of the City Treasurer, not later than the fifteenth (15th) day of each month, to prepare a report showing:

1. Sums expended during the preceding month, by fund.
2. Sums received during the preceding month, by fund.
3. Unexpended balance of appropriated funds for each department and use to which funds are appropriated.

B. Such report shall be filed with the City Clerk with copies to the Mayor and the Finance committee upon request. It shall be the duty of the Finance committee to present such report to the City Council at the next regular meeting thereof and to make such explanations and recommendations as may be appropriate.

Section 115.300. City Treasurer — Annual Report.

The City Treasurer shall report to the City Council, on or before the fifteenth (15th) day following the close of each fiscal year of the City, the amounts of receipts and disbursements of the Treasury during the preceding fiscal year and the balance remaining to the credit of each fund and constituting the general balance in the Treasury on the first (1st) day of the new fiscal year. He/she shall also report the amount of bonds maturing in the new fiscal year, for the redemption of which provision must be made, and the amount of money required to pay interest falling due on the indebtedness of the City during such year.

Article VI. City Assessor

Section 115.310. City Assessor — Authority To Contract With County For Services of Assessor.

The Mayor and the City Council are hereby authorized to contract with the office of the County Assessor for the services performed by the office of a City Assessor.

Article VII. Public Works Director

Section 115.320. Public Works Director — Qualifications.

No person shall be eligible for the office of Public Works Director who is not skilled in the science of basic engineering, water treatment and distribution, basic sewer design and treatment, storm water control, and the practical application thereof.

Section 115.330. Additional Oath of Office Required.

The Public Works Director shall, before entering upon the duties of his/her office, take the oath of office required of other City Officers with this addition and to this effect: that he/she is not and will not, during his/her term of office, be directly concerned or interested in any contract made with this City for any public work or for material furnished.

Section 115.340. Powers and Duties Generally.

A. The Public Works Director shall perform all the duties requested of him/her by the City Council from time to time. He/she shall perform the duties of the City Engineer, Traffic Engineer, Street Commissioner, and Superintendent of the City's Water Works and Sewer Works.

B. The Public Works Director shall make all plans, specifications and estimates for all work to be contracted for by the City and, if so directed by the City Council, shall have general supervision thereof and be responsible for the accurate performance of such contracts. He/she shall devote all his/her time to the discharge of the duties of his/her office and permit no work to progress or be done except under his/her personal inspection and supervision.

C. The Public Works Director shall obtain surveys, plats, drawings, plans, specifications and estimates as may from time to time be required of him/her by this Code or other ordinance or resolution of the City Council.

D. The Public Works Director shall prepare plans, specifications and estimates of the cost of all public improvements or of public sewers ordered by the City Council to be built.

E. The Public Works Director shall preserve in his/her office all maps, plans and surveys of the City or any part thereof with all records, books and papers and all other things relating thereto.

F. The Public Works Director shall cause to be carried into effect all ordinances concerning streets, alleys and other public places and superintend the opening, improvement and repairing thereof.

G. The Public Works Director shall establish the grades of any street, alley or thoroughfare whenever required so to do by order of the City Council. It shall be the further duty of the Public Works Director to give the grade, where it has been established, and the line of the streets and alleys to all persons applying therefor.

Section 115.350. Certification of Contractors' Claims — Power To Suspend Execution of Public Works Contracts — Liability For Defective Work.

The Public Works Director shall certify the claims of all contractors for payment and shall suspend the execution of any contract when the contractor fails to comply with the terms of his/her contract. Such certification shall state that the work for which claim is made has been satisfactorily and accurately done in accordance with the ordinances regulating such work and the contract entered into for the

performance thereof; and in the event that such work is defective or inaccurate, then shall instruct the contracted engineer or contractor to make the necessary changes therein.

Section 115.360. Duties — Contract For Additional Services — Policy.

A. In addition to or in place of the services performed by the Public Works Director, the City may contract for professional consulting services regarding the practice of architecture, engineering and surveying.

B. A policy for the selection of professional consulting service regarding to the practice of architecture, engineering and surveying on behalf of the City shall be included in the procurement policy as approved by the City Council and a copy shall be kept on file by the City Clerk.

Article VIII. Code Enforcement Officers

Section 115.370. Code Enforcement Officers — Powers and Duties Generally.

A. *Position Created.* There is hereby created the position of Code Enforcement Officer. The Code Enforcement Officer shall be appointed by the City Administrator with the consent of the Mayor. In the absence of a City Administrator, the Mayor shall appoint the Code Enforcement Officer. This shall be a full-time, paid position of the City or a duty assigned to a current employee when time permits in addition to their normal duties.

B. *Duties.* The Code Enforcement Officer shall enforce the ordinances of the City and shall be responsible for the investigation of all violations of the City ordinances. The Code Enforcement Officer shall provide a monthly report of all violations of City ordinances to the Mayor and City Council. The powers and duties of the Code Enforcement Officer may also be exercised by the City Administrator, Public Works Director, Building Inspector, or any sworn law enforcement officer within the city and upon a vacancy in this office, may be temporarily held by the same.

C. *Violations Of Codes.* The Code Enforcement Officer will take steps to cause the correction of any violation of any code under the officer's jurisdiction. These steps may include warnings, a written direction to correct the matter, filing of charges for ordinance violations or filing with the assistance of the City Attorney, other court actions to enforce the code.

D. *Supervision.* The Code Enforcement Officer shall serve under the supervision of the City Administrator.

Chapter 120. Open Meetings and Records Policy

Article I. In General

Section 120.010. Definitions.

As used in this Chapter, unless the context otherwise indicates, the following terms mean:

CLOSED MEETING, CLOSED RECORD OR CLOSED VOTE Any meeting, record or vote closed to the public.

COPYING If requested by a member of the public, copies provided as detailed in Section 120.110 of this Chapter, if duplication equipment is available.

PUBLIC BUSINESS All matters which relate in any way to performance of the City's functions or the conduct of its business.

PUBLIC GOVERNMENTAL BODY any legislative, administrative or governmental entity created by the Constitution or Statutes of this State, orders or ordinances of the City, judicial entities when operating in an administrative capacity or by executive order, including:

1. Any advisory committee or commission appointed by the Mayor or City Council.

2. Any department or division of the City.

3. Any other legislative or administrative governmental deliberative body under the direction of three (3) or more elected or appointed members having rulemaking or quasi-judicial power.

4. Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above-named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the public governmental body's governing board or its Chief Administrative Officer, policy or policy revisions or expenditures of public funds.

5. Any quasi-public governmental body. The term *"quasi-public governmental body"* means any person, corporation or partnership organized or authorized to do business in this State pursuant to the provisions of Chapters 352, 353 or 355, RSMo., or unincorporated association which either:

    a. Has as its primary purpose to enter into contracts with public governmental bodies or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or

    b. Performs a public function, as evidenced by a statutorily or ordinance-based capacity, to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax exempt debt, rights of eminent domain, or the contracting of lease-back agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from the City, but only to the extent that a meeting, record or vote relates to such appropriation.

PUBLIC MEETING Any meeting of a public governmental body subject to this Chapter at which any public business is discussed, decided or public policy formulated, whether such meeting is conducted in person or by means of communication equipment including, but not limited to, conference call, video conference, Internet chat or Internet message board. The term *"public meeting"* shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this Chapter, but the term shall include a vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one (1) location in order to conduct public business.

PUBLIC RECORD any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body. The term *"public record"* shall not include any internal memorandum or letter received or prepared by or on

behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any documents or study prepared for a public governmental body by a consultant or other professional service as described in this subdivision shall be retained by the public governmental body in the same manner as any other public record.

PUBLIC VOTE Any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of any public governmental body.

Section 120.020 Meetings, Records and Votes To Be Public - Exception

A. All meetings, records and votes are open to the public, except that any meeting, record or vote relating to one (1) or more of the following matters, as well as other materials designated elsewhere in this Chapter, shall be closed unless the public governmental body votes to make them public:

1. Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public governmental body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of Section 610.011, RS Mo., however, the amount of any monies paid by, or behalf of, the public governmental body shall be disclosed; provided however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record.

2. Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefore. However, any minutes or vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate.

3. Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two (72) hours of the close of the meeting where such action occurs; provided however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two (72) hour period before such decision is made available to the public. As used in this Subsection, the term ''personal information'' means information relating to the performance or merit of individual employees.

4. Non-judicial mental or physical health proceedings involving an identifiable person, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment

5. Testing and examination materials before the test or examination is given or, if it is to be given again, before so given again.

6. Welfare cases of identifiable individuals.

7. Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups.

8. Software codes for electronic data processing and documentation thereof.

9. Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid.

10. Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected.

11. Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.

12. Records which are protected from disclosure by law

13. Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest.

14. Records relating to municipal hotlines established for the reporting of abuse and wrongdoing.

15. Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this Chapter.

16. Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in non-disclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2012.

17. Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a non- public entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety.

a. Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open.

b. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property and shall in the same writing state that the public interest in non-disclosure outweighs the public interest in disclosure of the records.

c. Records that are voluntarily submitted by a non-public entity shall be reviewed by the receiving agency within ninety (90) days of submission to determine if retention of the document is necessary in furtherance of a State security interest. If retention is not necessary, the documents shall be returned to the non-public governmental body or destroyed.

d. This exception shall sunset on December 31, 2012.

18. Records that identify the configuration of components or the operation of a computer, computer system, computer network or telecommunications network and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network or telecommunications network, including the amount of monies paid by, or on behalf of, a public governmental body for such computer, computer system, computer network or telecommunications network, shall be open.

19. Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety:

a. Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;

b. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

c. Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;

20. The portion of a record that identifies security systems or access codes or authorization codes for security systems of real property;

21. Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow

unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open;

22. Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body;

23. Records submitted by an individual, corporation, or other business entity to a public institution of higher education in connection with a proposal to license intellectual property or perform sponsored research and which contains sales projections or other business plan information the disclosure of which may endanger the competitiveness of a business;

24. Records relating to foster home or kinship placements of children in foster care under section 210.498; and

25. Individually identifiable customer usage and billing records for customers of a municipally owned utility, unless the records are requested by the customer or authorized for release by the customer, except that a municipally owned utility shall make available to the public the customer's name, billing address, location of service, and dates of service provided for any commercial service account."

Section 120.030. Electronic Transmissions — Public Record — When.

Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this Section shall only apply to messages sent to two (2) or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exception of Section 610.021, RSMo.

Section 120.040. Notices of Meetings.

A. All public governmental bodies shall give notice of the time, date and place of each meeting and its tentative agenda in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by Internet chat, Internet message board or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent

with the notice being made available to the members of the particular governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

B. Notice conforming with all of the requirements of Subsection (A) of this Section shall be given at least twenty-four (24) hours, exclusive of weekends and holidays when City Hall is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.

C. The City shall allow for the recording by audiotape, videotape or other electronic means of any open meeting. The City may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record or vote closed pursuant to the provisions of Section 120.020 shall be permitted without permission of the City; any person who violates this provision shall be guilty of an ordinance violation.

D. Each governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to a specific exception allowed pursuant to Section 120.020 hereof. The notice shall be the same as described in Subsection (A) herein.

E. A formally constituted subunit of a parent governmental body may conduct a meeting without notice during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

Section 120.050. Closed Meetings — How Held.

A. Except as set forth in Subsection (D) of Section 120.040, no meeting or vote may be closed without an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to a specific Section of this Chapter shall be announced publicly at an open meeting of the governmental body and entered into the minutes.

B. Any meeting or vote closed pursuant to Section 120.020 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

Section 120.060. Journals of Meetings and Records of Voting.

A. Except as provided in Section 120.020, rules authorized pursuant to Article III of the Missouri Constitution and as otherwise provided by law, all votes shall be recorded, and if a roll call is taken, as to attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual

member of the public governmental body. Any votes taken during a closed meeting shall be taken by roll call. All public meetings shall be open to the public and public votes and public records shall be open to the public for inspection and duplication. All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting. When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, Internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.

B. A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body including, but not limited to, a record of any vote taken at such meeting. The minutes shall include the date, time, place, members present, members absent, and a record of votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the public governmental body.

Section 120.070. Accessibility of Meetings.

A. Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public and at a time reasonably convenient to the public unless for good cause such a place or time is impossible or impractical. Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.

B. When it is necessary to hold a meeting on less than twenty-four (24) hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

Section 120.080. Segregation of Exempt Material.

If a public record contains material which is not exempt from disclosure, as well as material which is exempt from disclosure, the custodian shall separate the exempt and non-exempt material and make the non-exempt material available for examination and copying in accord with the policies provided herein. When designing a public record, the custodian shall, to the extent practicable, facilitate a separation of exempt from non-exempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the custodian shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

Section 120.090. Custodian Designated — Response To Request For Access To Records.

A. The City Clerk shall be the custodian of records and will be responsible for maintenance and control of all records. The custodian may designate deputy custodians in operating departments of the City and such other departments or offices as the custodian may determine. Deputy custodians shall conduct matters relating to public records and meetings in accord with the policies enumerated herein.

B. Each public governmental body shall make available for inspection and copying by the public of that body's public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian. No public governmental body shall, after August 28, 1998, grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.

C. Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third (3rd) business day following the date the request is received by the custodian of records of a public governmental body. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three (3) days for reasonable cause.

D. If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third (3rd) business day following the date that the request for the statement is received.

Section 120.100. Violations — Remedies, Procedure, Penalty — Validity of Actions By Governing Bodies in Violation — Governmental Bodies May Seek Interpretation of Law.

A. The remedies provided by this Section against public governmental bodies shall be in addition to those provided by any other provision of law. Any aggrieved person, taxpayer to, or citizen of this State may seek judicial enforcement of the requirements of Sections 610.010 to 610.026, RSMo. Suits to enforce Sections 610.010 to 610.026, RSMo., shall be brought in the Circuit Court for the County in which the public governmental body has its principal place of business. Upon service of a summons, petition, complaint, counterclaim or cross-claim in a civil action brought to enforce the provisions of Sections 610.010 to 610.027, RSMo., the custodian of the public record that is the subject matter of such civil action shall not transfer custody, alter, destroy or otherwise dispose of the public record sought to be inspected and examined, notwithstanding the applicability of an exemption pursuant to Section 610.021, RSMo., or the assertion that the requested record is not a public record until the court directs otherwise.

B. Once a party seeking judicial enforcement of Sections 610.010 to 610.026, RSMo., demonstrates to the court that the body in question is subject to the requirements of Sections 610.010 to 610.026, RSMo., and has held a closed meeting, record or vote, the burden of persuasion shall be on the body and its members to demonstrate compliance with the requirements of Sections 610.010 to 610.026, RSMo.

C. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has knowingly violated Sections 610.010 to 610.026, RSMo., the public governmental body or the member shall be subject to a civil penalty in an amount up to one thousand dollars ($1,000.00). If the court finds that there is a knowing violation of Sections 610.010 to 610.026, RSMo., the court may order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the

seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated Sections 610.010 to 610.026, RSMo., previously.

D. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has purposely violated Sections 610.010 to 610.026, RSMo., the public governmental body or the member shall be subject to a civil penalty in an amount up to five thousand dollars ($5,000.00). If the court finds that there was a purposeful violation of Sections 610.010 to 610.026, RSMo., then the court shall order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing such a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated Sections 610.010 to 610.026, RSMo., previously.

E. Upon a finding by a preponderance of the evidence that a public governmental body has violated any provision of Sections 610.010 to 610.026, RSMo., a court shall void any action taken in violation of Sections 610.010 to 610.026, RSMo., if the court finds under the facts of the particular case that the public interest in the enforcement of the policy of Sections 610.010 to 610.026, RSMo., outweighs the public interest in sustaining the validity of the action taken in the closed meeting, record or vote. Suit for enforcement shall be brought within one (1) year from which the violation is ascertainable and in no event shall it be brought later than two (2) years after the violation. This Subsection shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a public governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

F. A public governmental body which is in doubt about the legality of closing a particular meeting, record or vote may bring suit at the expense of that public governmental body in the Circuit Court of the County of the public governmental body's principal place of business to ascertain the propriety of any such action, or seek a formal opinion of the attorney general or an attorney for the governmental body.

Section 120.110. Fees For Copying Public Records — Limitations.

A. Except as otherwise provided by law, each public governmental body shall provide access to and, upon request, furnish copies of public records subject to the following:

1. Fees for copying public records, except those records restricted under Section 32.091, RSMo., shall not exceed ten cents ($.10) per page for a paper copy not larger than nine (9) by fourteen (14) inches, with the hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the request, the public governmental body shall produce the copies using employees of the body that result in the lowest amount of charges for search, research, and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the public governmental body to provide an estimate of the cost to the person requesting the records. Documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester.

2. Fees for providing access to public records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine (9) by fourteen (14) inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape or other medium used for the duplication. Fees for maps, blueprints or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual cost of such programming.

B. Payment of such copying fees may be requested prior to the making of copies.

Article II. Law Enforcement Arrest Reports and Records, Incident Reports, Etc.

Section 120.120. Definitions.

As used in this Article, the following terms shall have the following definitions:

ARREST An actual restraint of the person of the defendant, or by his/her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked.

ARREST REPORT A record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor.

INACTIVE An investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

1. A decision by the law enforcement agency not to pursue the case.

2. Expiration of the time to file criminal charges pursuant to the applicable statute of limitations or ten (10) years after the commission of the offense, whichever date earliest occurs.

3. Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons.

INCIDENT REPORT A record of a law enforcement agency consisting of the date, time, specific location, name of the victim, and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency.

INVESTIGATIVE REPORT A record, other than an arrest or incident report, prepared by personnel of a law enforcement agency inquiring into a crime or suspected crime either in response to an incident report or in response to evidence developed by Law Enforcement Officers in the course of their duties.

Section 120.130. Police Department Records.

A. The Police Department of the City shall maintain records of all incidents reported to the Police Department and investigations and arrests made by the Police Department. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the

provisions of Subsection (C) of this Section or Section 320.083, RSMo., investigative reports of the Police Department are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty (30) days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in Section 120.150.

B. Except as provided in Subsections (C) and (D) of this Section, if any portion of a record or document of a Police Department Officer or the Police Department, other than an arrest report which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for Police Department investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this Chapter.

C. Any person, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident may obtain any records closed pursuant to this Section or Section 120.150 for purposes of investigation of any civil claim or defense as provided by this Subsection. Any individual, his/her attorney or insurer involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident and may obtain access to other records closed by the Police Department pursuant to this Section. Within thirty (30) days of such request, the Police Department shall provide the requested material or file a motion pursuant to this Subsection with the Circuit Court having jurisdiction over the Police Department stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. Pursuant to Section 610.100(4), RSMo., if, based on such motion, the court finds for the Police Department, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this Subsection.

D. Any person may apply pursuant to this Subsection to the Circuit Court having jurisdiction for an order requiring a Law Enforcement Agency to open incident reports and arrest reports being unlawfully closed pursuant to the Section. If the court finds by a preponderance of the evidence that the Law Enforcement Officer or Agency has knowingly violated this Section, the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars ($1,000.00). If the court finds that there is a knowing violation of this Section, the court may order payment by such officer or agency of all costs and attorneys' fees, as provided by Section 610.027, RSMo. If the court finds by a preponderance of the evidence that the Law Enforcement Officer or Agency has purposely violated this Section, the officer or agency shall be subject to a civil penalty in an amount up to five thousand dollars ($5,000.00) and the court shall order payment by such officer or agency of all costs and attorney fees, as provided in Section 610.027, RSMo. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the Law Enforcement Officer or Agency has violated this Section previously.

E. The victim of an offense as provided in Chapter 566, RSMo., may request that his/her identity be kept confidential until a charge relating to such incident is filed.

Section 120.140. Effect of Nolle Pros, Dismissal and Suspended Imposition of Sentence On Records.

A. If the person arrested is charged but the case is subsequently Nolle prosequi, dismissed, or the accused is found not guilty, or imposition of sentence is suspended in the court in which the

action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated, except as provided in Subsection (B) of this Section and Section 120.150 and except that the court's judgment or order or the final action taken by the prosecutor in such matters may be accessed. If the accused is found not guilty due to mental disease or defect pursuant to Section 552.030, RSMo., official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child care agencies, facilities as defined in Section 198.006, RSMo., and in-home services provider agencies as defined in Section 660.250, RSMo., in the manner established by Section 120.150.

B. If the person arrested is charged with an offense found in Chapter 566, RSMo., Section 568.045, 568.050, 568.060, 568.065, 568.080, 568.090 or 568.175, RSMo., and an imposition of sentence is suspended in the court in which the action is prosecuted, the official records pertaining to the case shall be made available to the victim for the purpose of using the records in his/her own judicial proceeding or if the victim is a minor to the victim's parents or guardian, upon request.

Section 120.150. Public Access of Closed Arrest Records.

A. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this Section and Section 43.507, RSMo. The closed records shall be available to: criminal justice agencies for the administration of criminal justice pursuant to Section 43.500, RSMo., criminal justice employment, screening persons with access to criminal justice facilities, procedures and sensitive information; to law enforcement agencies for issuance or renewal of a license, permit, certification, or registration of authority from such agency including, but not limited to, watchmen, security personnel, private investigators, and persons seeking permits to purchase or possess a firearm; those agencies authorized by Section 43.543, RSMo., to submit and when submitting fingerprints to the central repository; the Sentencing Advisory Commission created in Section 558.019, RSMo., for the purpose of studying sentencing practices in accordance with Section 43.507, RSMo.; to qualified entities for the purpose of screening providers defined in Section 43.540, RSMo.; the Department of Revenue for driver license administration; the Division of Workers' Compensation for the purposes of determining eligibility for crime victims' compensation pursuant to Sections 595.010 to 595.075, RSMo.; Department of Health and Senior Services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies and Federal agencies for purposes of criminal justice administration, criminal justice employment, child, elderly, or disabled care, and for such investigative purposes as authorized by law or presidential executive order.

B. These records shall be made available only for the purposes and to the entities listed in this Section. A criminal justice agency receiving a request for criminal history information under its control may require positive identification, to include fingerprints of the subject of the record search, prior to releasing closed record information. Dissemination of closed and open records from the Missouri criminal records repository shall be in accordance with Section 43.509, RSMo. All records which are closed records shall be removed from the records of the Police Department and Municipal Court which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

Section 120.160. "911" Telephone Reports.

Except as provided by this Section, any information acquired by the Police Department by way of a complaint or report of a crime made by telephone contact using the emergency number "911" shall be inaccessible to the general public. However, information consisting of the date, time, specific location, and immediate facts and circumstances surrounding the initial report of the crime or incident shall be considered to be an incident report and subject to Section 120.130. Any closed records pursuant to this Section shall be available upon request by law enforcement agencies or the Division of Workers' Compensation or pursuant to a valid court order authorizing disclosure upon motion and good cause shown.

Section 120.170. Daily Log or Record Maintained By Police Department of Crimes, Accidents or Complaints — Public Access To Certain Information.

A. The City of Carterville Police Department, if it maintains a daily log or record that lists suspected crimes, accidents or complaints, shall make available the following information for inspection and copying by the public:

1. The time, substance and location of all complaints or requests for assistance received by the Police Department;

2. The time and nature of the Police Department's response to all complaints or requests for assistance; and

3. If the incident involves an alleged offense or infraction:

   a. The time, date and location of occurrence;

   b. The name and age of any victim, unless the victim is a victim of a crime under Chapter 566, RSMo.;

   c. The factual circumstances surrounding the incident; and

   d. A general description of any injuries, property or weapons involved.

Chapter 125. Personnel Policy

Article I. Employee Policy – General

Section 125.010. History, Goals & Culture

The City of Carterville was founded in 1882 amidst the mining boom in Southwest Missouri. Over the years the city has struggled to provide ample services to its citizens while maintaining the small-town identity which has resulted in slow growth. Regardless of the challenges faced the city has remained to achieving primarily one common goal. That goal is to provide efficient and economical municipal services to the citizens to offer the best possible quality of life. This goal can be achieved only through mutual cooperation and understanding. City employees are typically the first or only contact citizens may have with its government. Therefore, it is important that City employees represent that government with open hearts and open minds.

Section 125.020. Purpose of this Handbook

The purpose of this policy is to outline a general guideline for a personnel system for the employees. Personnel policies are developed to promote efficiency and economy in government, to provide for the harmonious and impartial settlement of grievances, and to develop and maintain good morale and confidence among employees.

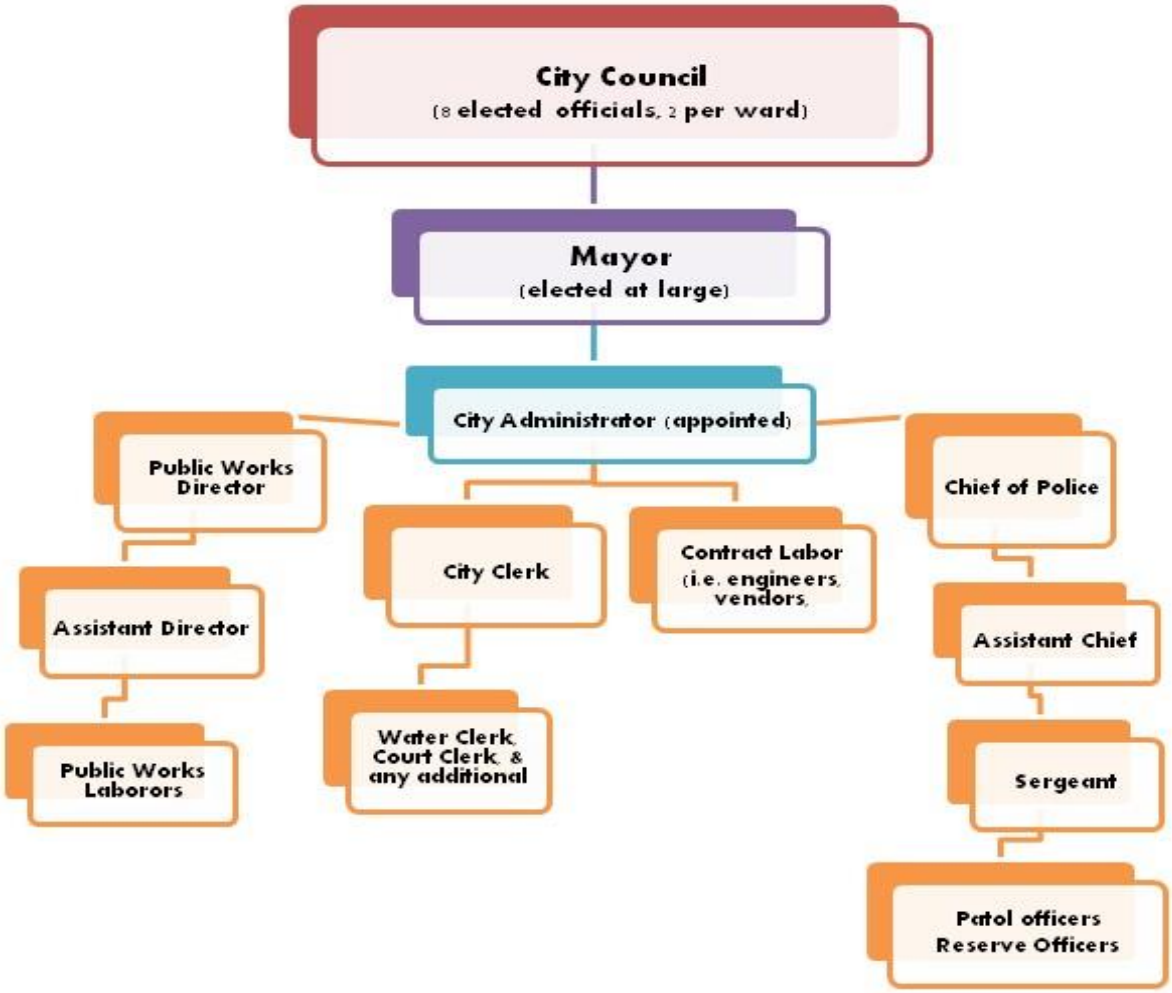
This policy is used as or constructed as an express or implied contract creating protected property or liberty rights or contractual conditions of employment or duties of the employer. (This Policy supplements but does not repeal provisions currently provided in City Ordinances.) This policy does supersede all departmental personnel manuals for the provisions listed herein. This policy does not supersede applicable Federal, State or Local laws concerning employment. It is also understood that some departmental policies may adhere to a stricter, but never more lenient policy structure due to the nature of the job required.

The city reserves the right to unilaterally revise, suspend, revoke, terminate or change any of its policies, in whole or in part, whether described within this handbook or elsewhere, in its sole discretion. If any discrepancy between this handbook and current city policy arises, conform to current city policy. Every effort will be made to keep you informed of the company's policies, however we cannot guarantee that notice of revisions will be provided. Feel free to ask questions about any of the information within this handbook.

Personnel policies shall apply uniformly to all persons employed by or seeking employment with the City of Carterville unless otherwise exempted by action of the City Council. In certain cases, Missouri Statutes or provisions in the City Ordinances give specific authority concerning personnel matters and other issues presented in this manual to the governing board of City related entities. In such cases, these entities are exempted from any provisions in this policy which contradict such authority.

Section 125.030. Organizational Structure

The city utilizes a hierarchy of authority method of structure and in most cases following the proper chain of command serves in the best interest of both the employee as well as the supervisors and city in general. If an employee has an issue, they are welcome to approach fellow employees in any department or higher seated authority for council, however they should never attempt to bypass the authority of their next in command by doing so. City government, other department employees, and other supervisors should, as a practice, address requests and concerns to your immediate supervisor, however from time to time an employee may be asked to complete a task or provide information to a higher-ranking supervisor, Mayor, or Councilman. If asked, employees should do their best to be respectful and accommodate, but always inform their supervisor at their earliest convenience. The organizational chart below shows the current city structure and may be updated at the city's discretion.



Section 125.040. At-Will Employment

Unless modified by law, all employees shall have employment at the pleasure of the City and hold their position until the employee or the City shall desire to terminate the connection; in which event the terminating party is to have the right to be relieved of further responsibility to the other. By creating this policy, the City does not relinquish or wave its entitlement to discharge employees at will.

The City of Carterville will provide legal assistance, legal defense and full indemnity by insurance otherwise, for its Administrators, elected/appointed Officials, Department Managers and Supervisory Personnel for all employment or related actions which are taken within the scope of their authorities and duties and which are in compliance with approved personnel policies.

Article II. Workplace Commitments

Section 125.050. Equal Opportunity Employment

It is the policy of the City of Carterville to provide equal employment opportunity to all qualified persons regardless of race, color, sex, religious affiliation, national origin, ancestry, age, familial status, handicap, sexual orientation, gender identity, or political affiliation. Included in the policy is the prohibition of discrimination in: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, rates of pay, or other forms of compensation or fringe benefit and selection for training and development.

Qualification for employment is based on merit, knowledge and ability, training and experience in relation to the actual job requirements. No appointments are made on the basis of favoritism, political or personal influence, or any other such means. There is an ever-increasing realization among Americans for the need to assure equal employment for all citizens. Various laws applicable to employers prohibit discrimination because of race, creed, color, national origin, sex, age, handicap, familial status, sexual orientation, gender identity, or religious affiliation. The City of Carterville is determined to comply fully with both the spirit and the provisions of these laws.

Section 125.060 Non-Harassment Policy / Non-Discrimination Policy

This City prohibits discrimination or harassment based on race, color, religion, creed, sex, national origin, age, disability, marital status, veteran status or any other status protected by applicable law. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and is free from discriminatory practices, including without limitation harassment. Consistent with its workplace policy of equal employment opportunity, the City prohibits and will not tolerate harassment on the basis of race, color, religion, creed, sex, national origin, age, disability, marital status, veteran status or any other status protected by applicable law. Violations of this policy will not be tolerated.

Discrimination includes, but is not limited to: making any employment decision or employment related action on the basis of race, color, religion, creed, age, sex, disability, national origin, marital or veteran status, or any other status protected by applicable law.

Harassment is generally defined as unwelcome verbal or non-verbal conduct, based upon a person's protected characteristic, that denigrates or shows hostility or aversion toward the person because of the characteristic, and which affects the person's employment opportunities or benefits, has the purpose or effect of unreasonably interfering with the person's work performance, or has the purpose or effect of creating an intimidating, hostile or offensive working environment. Harassing conduct includes, but is not limited to: epithets; slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes and display or circulation in the workplace of written or graphic material that denigrates or shows hostility or aversion toward an individual or group based on their protected characteristic. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature, when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Examples of sexual harassment include: unwelcome or unsolicited sexual advances; displaying sexually suggestive material; unwelcome sexual flirtations, advances or propositions; suggestive comments; verbal abuse of a sexual nature; sexually oriented jokes; crude or vulgar language or gestures; graphic or verbal commentaries about an individual's body; display or distribution of obscene materials; physical contact such as patting, pinching or brushing against someone's body; or physical assault of a sexual nature.

Reporting:

Any employee who feels that he or she has been harassed or discriminated against, or has witnessed or become aware of discrimination or harassment in violation of these policies, should bring the matter to the immediate attention of his or her supervisor or acting City Administrator. The city will promptly investigate all allegations of discrimination and harassment and take action as appropriate based on the outcome of the investigation. An investigation and its results will be treated as confidential to the extent feasible, and the City will take appropriate action based on the outcome of the investigation.

No employee will be retaliated against for making a complaint in good faith regarding a violation of these policies, or for participating in good faith in an investigation pursuant to these policies. If an employee feels he/she has been retaliated against, the employee should file a complaint using the procedures set forth above.

Section 125.070 Drug-Free / Alcohol-Free Environment

Employees are prohibited from unlawfully consuming, distributing, possessing, selling, or using controlled substances while on duty. In addition, employees may not be under the influence of any controlled substance, such as drugs or alcohol, while at work, on City premises or engaged in City business. For purposes of this policy, under the influence of alcohol will be defined as any residual blood alcohol level of .02 or greater at any given time. Prescription drugs or over-the-counter medications, taken as prescribed, are an exception to this policy. Anyone violating this policy may be subject to disciplinary action, up to and including termination.

Active Employee Testing

The City of Carterville has adopted employee drug and alcohol testing practices. It shall be a condition of continued employment for all employees to submit specimens for analysis based upon the following:

1. Random
2. Post-accident
3. Reasonable Suspicion
4. Post-rehabilitation/after-care

Circumstances that could be indicators of an alcohol or other substance abuse problem and considered reasonable suspicion are:

1. Observed alcohol or other substance use during work hours on City premises
2. Apparent physical state of impairment

3. Incoherent mental state
4. Marked changes in personal behavior that are otherwise unexplainable
5. Deteriorating work performance that is otherwise unexplainable
6. Accidents or other actions that provide reasonable cause to believe the employee may be under the influence.

An employee bringing onto the City's premises or property, having possession of, possessing in the employee's body, blood or urine above the threshold levels established above, or using, distributing, consuming, transferring, selling or attempting to sell or transfer any form of alcohol or other substance while on City business or at any time during the hours between the beginning and the end of the employee's working day, whether on duty or not, and whether on City business or property or not, is guilty of misconduct and is subject to discipline, up to and including termination. Failure to submit to required medical or physical examination or tests is misconduct and is grounds for discipline, up to and including termination.

Random testing

All regular full-time and regular part-time employees of the City of Carterville will be randomly tested for alcohol and other substances. A computer program or other independent, bias-free method on name selection will be used to ensure that employees to be tested are randomly selected. The number of random tests conducted in subsequent years may be affected up or down based upon test results.

Rehabilitation/After–care

Employees who successfully complete a rehabilitation program for alcohol or other substance related problems must test negative before returning to or continuing with work. Following completion of the initial rehabilitation program, the employee must successfully complete a minimum one (1) year post-rehabilitation program/after-care program acceptable to the City. The employee must agree to follow up drug testing for two (2) years at dates and times specified by the City following return to work or upon completion of the program.

Employees not agreeing to or not complying with these conditions or testing positive at any time during or following rehabilitation may be terminated from employment with the City.

Section 125.080. Employee Assistance Program

It is the responsibility of the City's supervisors to counsel employees whenever they see changes in performance or behavior that suggest and employee may have an alcohol or other substance abuse problem. Although it is not the supervisor's job to diagnose personal problems, the supervisor should encourage such employees to seek help and advise them about available resources for getting help. A Supervisor may also decide that the severity of the observed problem is such that an involuntary referral to the EAP should be made. Everyone shares responsibility for maintaining a safe work environment and co-workers should encourage anyone who has an alcohol or other substance abuse problem to seek help.

The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that the use of alcohol and other substances is incompatible with the employment at the City of Carterville.

The City maintains an Employee Assistance Program (EAP) which provides help to employees and their families who suffer from alcohol or other substance abuse.

However, it is the responsibility of each employee to seek assistance from the EAP before substance abuse problems lead to disciplinary action and may, in fact, have no bearing on the determination of appropriate disciplinary action.

The employee's decision to seek prior assistance from the EAP will not be used as the basis for disciplinary action and will not be used against the employee in any disciplinary proceeding.

On the other hand, using the EAP will not be a defense to imposition of disciplinary action where facts providing a violation of this policy are obtained outside the EAP. Accordingly, the purposes and practice of this policy and the EAP are not in conflict but are distinctly separate in the application.

Through the EAP, the City will provide appropriate assessment, referral to treatment, and treatment of drug abuse (subject to the provisions of the City's health insurance plan). Such employees may be granted leave with a conditional return to work depending on a successful completion of the agreed upon appropriate treatment regimen which shall include random testing.

Section 125.090 Medical Marijuana and THC Products

The consistent policy of the city has been that as a governmental agency; we will not tolerate the violation of any state or federal law by employees. However, in order to avoid any confusion following the legalization of medical marijuana by the State of Missouri employees are reminded that it is the policy of the city that:

Employees shall not, on or off the job, ingest, use or otherwise consume Marijuana, THC Hemp, CBD products or any product that may possibly contain any amount of THC. This prohibition applies to use of any form of such drugs, including but not limited to smoking, injecting or eating, by itself or in combination with other products. The presence of any detectable amount of marijuana or THC in the employee's system is prohibited.

Employees are not permitted to apply for, possess or use a medical marijuana registration card for themselves or others. Employees shall not apply for or serve as a caregiver for a person in possession of a medical marijuana certificate or registration card.

Employees are not permitted to own, operate, manage, invest or be financially involved in, or be otherwise involved in the operation or management in any way of any marijuana cooperative, dispensary, business or location that is used to manufacture, grow, process, use, sell or dispense marijuana for any reason, including but not limited to so-called medical purposes, or any location that is involved in the sale or distribution of any paraphernalia that can be used for any of the above.

Any employee of the city who tests positive for any detectable amount marijuana, or any detectable amount of any prohibited or illegal substance shall be immediately relieved of duty and surrender any and all city owned property.

Article III. City Policies and Procedures

Section 125.100. Open Door Policy.

The City has an open-door policy and takes employee concerns and problems seriously. The City values each employee and strives to provide a positive work experience. Employees are encouraged to bring any workplace concerns or problems they might have or know about to their supervisor or some other member of management.

Section 125.110. Professional Conduct.

This City expects its employees to adhere to a standard of professional conduct and integrity. This ensures that the work environment is safe, comfortable and productive. Employees should be respectful, courteous, and mindful of others' feelings and needs. General cooperation between coworkers and supervisors is expected. Individuals who act in an unprofessional manner which exposes the City to civil or criminal liability, or any act or conduct which knowingly results in disrespect for City business operations will result in disciplinary action. In addition, employees should respect their work area, break areas, and vehicles to ensure a professional appearance to fellow employees, visitors, and citizens.

Section 125.120. Dress Code

An employee's personal appearance and hygiene is a reflection on the city's character. Employees are expected to dress appropriately for their individual work responsibilities and position. Employees should refer to their respective departments for specific dress codes.

Section 125.130. Political Activities and Elections

City employees, including those employed by City Agencies, Boards, or Departments shall be limited in their political activities as follows:

1. City employees shall not be appointed, retained or dismissed on the basis of their political affiliations or activities which do not violate this section.

2. City employees shall not be coerced to take part in political campaigns, to solicit funds or support, for the purpose of supporting or opposing the appointment or election of candidates for any municipal office.

3. City employees shall not be candidates in any municipal election.

4. No City employees shall actively advocate or oppose the candidacy of any individual for nomination or election to any municipal office; but an employee may participate in political affairs at other levels of government, provided such participation does not adversely affect his performances as a City employee.

5. Employees are encouraged to exercise their right to vote in municipal elections, but shall not participate in any other way in municipal elections; provided, however, that City employees may participate and vote in a local political party caucus as a part of the nominating procedures for municipal candidates.

Section 125.140 Internet Usage

Any part-time or full-time employee of the city may access computer resources or equipment corresponding to their assigned department and should only access that department's wireless

connections on their own devices. Internet- capable cell phones or other devices may be used to access the Internet while on or off duty using the employee's own data network and so long as it complies with the following regulations.

Employees will not use the Internet for personal business, browsing, or social networking while on the city's time, except for occasional use during breaks, lunch times, or periodic checking of email.

At no time shall any employee clear or delete internet-browsing histories from any terminal. Upon inspection by the network administrator, if histories have been deleted, the employee may be subject to restricted access for a period to be determined by his/her supervisor. Only those websites that further enhance the employee's performance of his/her duties or the city as a whole will be accessed.

Many times, a person will access a site by accident or by using a search program or engine. As soon as the member realizes that this site does not suit any purpose as stated above, the member will move on to another site. Upon finding a site that fits the purpose, the member may then explore that site as long as needed.

Reasons for sites accessed can include but, be not limited to pricing materials, purchasing, research and/or how to instruction based on job duties, legislation, state laws, researching new products, obtaining maps, addresses, or phone numbers.

If during the course of using the internet, the employee inadvertently accesses a web site of a questionable nature (i.e. pornographic), the employee must immediately leave the site and notify his/her supervisor as soon as possible.

The Internet is not a secure or virus-free environment. A virus, downloaded from the Internet, can infect the entire network. Files can be lost or destroyed and hardware rendered unusable. Anything that is downloaded from the Internet will be checked for viruses.

The department's computer system administrator will ensure that up-to-date computer virus protection software is installed and maintained on all computers that have Internet access.

If a virus is detected by the software, under no circumstances, will the file be saved. Erase the file.

Section 125.150. Social Networking

Employees are reminded that their conduct, both on- and off-duty, must meet a high standard. Such conduct is a reflection on the entire city. This includes, but is not limited to, conduct related to materials posted on the Internet or disseminated electronically.

Definition of "Social Networking": any sites that use Internet services to allow individuals to construct a public or semi-public profile within that system. This type of network and its design vary from site to site, and include weblogs ("blogs"), networking sites such as Facebook, Myspace, LinkedIn, Twitter, etc., photo & video sharing, microblogging, and podcasts, as well as comments posted on the sites.

Employees of the city who desire to have any photos or statements on his/her website, social networking page or profile that show their affiliation with our agency must have the approval of the City Administrator.

Photos would include pictures of the member in uniform and images of department vehicle(s) or photos taken in locations such as job sites or city owned buildings.

No employee shall post or allow to be posted any digital media through any Internet service that could reasonably be interpreted to express the opinions of the city or its administration or has both a reference to the member being affiliated with this department, and which contain material that is unprofessional, unbecoming, racist, sexist, or illegal. This extends to expressing approval of such material, such as indicating “Like” on a Facebook posting.

Section 125.160. City Property

City property, such as equipment, vehicles, telephones, computers, and software, is not for private use. These devices are to be used strictly for City business, and are not permitted off grounds unless authorized. City property must be used in the manner for which it was intended. Upon termination, employees are required to surrender any City property they possess.

City computers, internet and emails are a privileged resource, and must be used only to complete essential job-related functions. Employees are not permitted to download any “pirated” software, files or programs and must receive permission from a supervisor before installing any new software on a City computer. Files or programs stored on City computers may not be copied for personal use.

Phones are provided for business use. The City requests that employees not receive personal calls while on duty. If urgent, please keep personal calls to a minimum and conversations brief. Personal long-distance calls are not permitted.

Employees are reminded that they should have no expectation of privacy in their use of City computers or other electronic equipment.

Section 125.170. Employee Purchases

Any part-time or full-time employee of the city shall report, to their department head, the need to make a purchase either immediate or for surplus needs.

Department heads will make every effort to determine if they have a true need for the purchase and if their current budget will support such purchase. If the purchase is in fact valid, they shall contact City Hall to acquire a purchase order number prior to ordering. If a PO number is issued, they may then make the purchase or delegate a subordinate to do so. (Although an exact price and occasionally quantity may be unknown...every effort should be made to give a close estimate to City Hall and to purchase only that which was originally reported)

City Hall clerks shall upon request of a purchase order, make every effort to pull a new ticket from the system without delay and will notify the requesting department head if there is a shortfall in the budget for which they wish to make a purchase. If an override is necessary due to a shortfall, the system will prompt for an encumbrance over ride and an approving agent should be notified.

Once a department has received a PO number and placed an order, they should immediately return any information back to City Hall in regards to changes in price, vendor, or quantity. If a purchase is made which results in a receipt or invoice given at the time of purchase, it should be returned to City Hall immediately.

Upon accounts payable receiving an invoice, receipt, or statement for purchases made, they shall ensure it is paired up with either the original PO or a copy and placed into the proper "payables" receptacle for processing. All effort should be made to have a two-week turnaround, if possible, and a copy of all paperwork, including a check for payment should be made available at the next by-weekly finance meeting.

Section 125.180. Privacy

Employees and employers share a relationship based on trust and mutual respect. However, the City retains the right to access all City property including computers, desks, file cabinets, storage facilities, and files and folders, electronic or otherwise, at any time. Employees should not entertain any expectations of privacy when on City grounds or while using City property.

All documents, files, voice-mails and electronic information, including e-mails and other communications, created, received or maintained on or through City property are the property of the City, not the employee. Therefore, employees should have no expectation of privacy over those files or documents.

Section 125.190 Personnel Files

The City maintains a personnel file on each employee. These files are kept confidential to the extent possible. Employees may review their personnel files upon request.

It is important that personnel files accurately reflect each employee's personal information. Employees are expected to inform the City of any change in name, address, home phone number, home address, marital status, number of dependents or emergency contact information.

Section 125.200. Tobacco Use

The city maintains a smoke free environment to provide a clean, safe and healthy environment for employees and visitors by regulating the use of tobacco products in city buildings, facilities and vehicles.

Smoking is always prohibited in vehicles as well as the interior of any city owned buildings and facilities including offices, garages, storage sheds, bathrooms and any other buildings that are now used or will be used by the city in the future.

All visitors or guests should be politely reminded of our tobacco policy if necessary.

Other alternatives such as smokeless tobacco, toothpicks, gum or similar items should not be used in the presence of guests, citizens, venders, etc. as it may demean the professionalism of the employee and the city. In addition, byproducts of such usage like wrappers, "spit cups", used toothpicks, chewed gum, etc. must never be left in a city vehicle or common area of a city building.

Section 125.210. Outside Employment

The city recognizes that some employees may need or want to hold additional jobs outside their employment with the city. Employees are permitted to engage in outside work or hold other jobs, subject to certain restrictions based on reasonable concerns.

Work-related activities and conduct away from the city must not compete with, conflict with or compromise the city's interests or adversely affect job performance and the ability to fulfill all responsibilities.

Employees are prohibited from performing any services for citizens of the city that are normally performed while on duty. This prohibition also extends to the unauthorized use of uniforms, granted authorities, tools or equipment and other city owned resources. In addition, employees may not solicit or conduct any outside business during work hours.

Outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel, or refusal to work overtime or different hours. If outside work activity causes or contributes to job-related problems, the employee will be asked to discontinue the outside employment, and the employee may be subject to the normal disciplinary procedures for dealing with the resulting job-related problem(s).

Employees who have accepted outside employment may not use company paid sick leave to perform work on the outside job. Fraudulent use of company sick leave or an employee's refusal to discontinue outside employment after being requested to do so by his or her department head will result in disciplinary action up to and including termination of employment.

Article IV. Employee Compensation and Classification

Section 125.220. General

This City hires, assigns positions, determines wages and compensates employees for overtime in accordance with state and local laws and the Fair Labor Standards Act.

Section 125.230. Exempt Employees

Exempt employees are those who are excluded from the overtime pay requirements of the Fair Labor Standards Act. Exempt employees are paid a salary and are expected to work beyond their normal work hours whenever necessary to accomplish the work of the City. Exempt employees are not eligible to receive overtime compensation. Employees should consult with an administrator if they have questions regarding their classification as an exempt employee.

Section 125.240 Non-Exempt Employees

Non-exempt employees are those eligible for overtime pay of one and a half (1.5) times the regular hourly rate of pay for all hours worked over forty (40) per work week. All overtime must be approved in advance. Employees should consult with an administrator if they have questions regarding their classification as a non-exempt employee.

Section 125.250. Part Time, Full Time or Temporary Status

Part-time or full-time status depends on the number of hours per week an employee works. Regular employees who work fewer than thirty (30) hours per week receive part-time classification. Part-time employees are not eligible for employee benefits as described in this handbook. Regular employees who work at least thirty (30) hours per week receive full- time classification.

From time to time the City may hire employees for specific projects or periods of time. Temporary employees may work either part-time or full-time, but generally are scheduled to terminate by a certain date. Temporary employees who remain on duty past the scheduled termination remain classified as temporary. Only City Council may change an employee's temporary status. Temporary employees are not eligible for employment benefits.

Section 125.260. Probation Period

This period is used to determine whether the employment relationship should continue. If the employee is dissatisfied with the City, the employee may leave with neither advance notice nor cause. If the City is dissatisfied, it may similarly terminate the relationship. If it is determined by the City, in its sole discretion, that a satisfactory performance level cannot be achieved through a reasonable

amount of training and counseling, the employee will be immediately released. The probationary, or working- test period for all employees, shall be three (3) months. Employees are subject to the guidelines of the Employee's Handbook on date of hire. Upon satisfactory completion of the trial period, the employee moves to regular status and is entitled to and will receive benefits given regular, classified employees.

Section 125.270. Pre-employment Drug Testing

Consistent with this City's policy opposing drug abuse, we have implemented a pre- employment drug testing policy:

All job applicants at the City of Carterville will undergo testing as a condition of employment. Applicants will be required to voluntarily submit a drug test at a collection site chosen by the City, and may be asked to sign a consent agreement which will release the City from liability.

Any applicant with positive test results may be denied employment at that time, or may initiate another inquiry with the City after six (6) months.

The City will not discriminate against applicants for employment because of past abuse of alcohol and other substances, but will not tolerate the current abuse of drugs and other substances which prevents employees from properly performing their jobs.

Section 125.280. Payday

Pay disbursements are distributed every other Tuesday, generally after 12:00 AM. If the pay date lands on a holiday, paychecks will be distributed on the closest business day after the holiday. All wages owed will be paid in the form of direct deposit to a banking account or eligible pay card.

The pay will reflect work performed for a two (2)-week period with the week prior to payday withheld until separation. Pay includes salary or wages earned less any mandatory or elected deductions. Mandatory deductions include federal or state withholding tax, and other withholdings. Elected deductions are deductions authorized by the employee, and may include, for example, contributions to benefit plans. Employees may contact the City Clerk to obtain the necessary authorization forms for requesting additional deductions from their pay.

Notify a supervisor if the deposit appears to be inaccurate or if it has not been made. Advances on pay are not permitted. Information regarding final paychecks can be found under the termination section of this handbook.

Any change in name, address, telephone number, marital status or number of exemptions claimed by an employee must be reported to the City Clerk immediately.

Section 125.290. Overtime

The City's overtime pay policy will conform to overtime provisions of the Federal Fair Labor Standards Act. Overtime pay for employees includes the following principal elements:

1. Non-exempt employees will be paid straight time for all approved hours worked (up to forty hours worked in one week).
2. Non-exempt employees will be paid one- and one-half times their regular rate for approved overtime hours

3. No compensation of overtime pay or comp time will be awarded to any employee unless the overage of regularly scheduled hours were pre-approved or when such extenuating circumstances arise that it would be generally expected for the employee to continue working.
4. Contract wages, Checkpoints, Traffic Enforcement & Other Special Details: The Police Department / City may at times Conduct Sobriety Checkpoints, Traffic Enforcement & Other Special Details or enter into contracts for services with other Governmental bodies, Law enforcement agencies and independent contractors to assist with security and or enforcement activities both private and public. It shall be the policy for both exempt and non-exempt employees that these details & contracts be paid by the City to the Officer at a ratio of twice the rate of pay for that officer without regard to the regular hours of duty. The City at its discretion may also be compensated for any cost incurred on its behalf for costs and fringe to the employee at an additional cost to contracted party.

Section 125.300. Compensatory Time

In some cases, compensatory time off may be granted in lieu of overtime pay. Compensatory time off is figured at one and a half (1.5) hours for each hour of overtime worked. An employee requesting the use of compensatory time shall make arrangements with the Mayor and/or Supervisor prior to the time he/she wishes to take off. An employee who has accrued compensatory time and requests use of the time, must be permitted to use the time off within a "reasonable period" after making the request if it does not "unduly disrupt" the operation of the department. An employee has a right to use the compensatory time earned and must not be coerced to accept more compensatory time than the department can realistically, and in good faith, expect to be able to grant.

The compensatory time earned by an employee constitutes a legal liability for the City. It is the responsibility of the supervisor to be familiar with the guidelines established by the Fair Labor Standards Act concerning the use of compensatory time. Compensatory may not be accumulated to exceed **40 hours at any one time**.

Section 125.310. Performance Appraisals

The supervisor shall appraise the performance of employees for purposes of employee development and improving work performance. Each employee shall be evaluated by his/her supervisor (reviewed by the Council) annually.

Section 125.320. Nepotism

Relatives of Council members, the Mayor, and Committee Chairpersons may not be employed in the City, except that any employee whose relative later takes office as Mayor or Councilmember shall not be affected.

As of the date of this policy, immediate family relatives will not be hired by the City within the same department. Applications, resumes, or requests for employment shall not be accepted if:

1. A member of that applicant's immediate family is employed by the City within the same department.
2. Applicant is a member of the Governing Body.
3. The applicant is a relative of a current City Council member.

"Immediate family relatives" include parents, children, spouse, brothers, sisters, in- laws, or any blood relative residing in the employee's home.

Article V. Attendance Policies

Section 125.330. General Attendance

Hours may vary depending on work location and job responsibilities. Supervisors will provide employees with their work schedule. Should an employee have any questions regarding his/her work schedule, the employee should contact the supervisor.

The city does not tolerate unauthorized absenteeism. Employees who will be late to or absent from work should notify a supervisor in advance, or as soon as practicable in the event of an emergency. Examples of unauthorized absence include but are not limited to:

-Walking off the job without approval of supervisor.

-Failure to notify supervisor when not reporting for work.

-Over extension of authorized leave or vacation without the approval of the City Administrator and/or supervisor.

-Failure to notify supervisor that the employee will be late for work.

-Failing to report to details outside of the city for which employees have obligated themselves and will cause a negative impression on the city.

Employees who need to leave early, for illness or otherwise, should inform a supervisor before departure.

Unauthorized departures or chronic absenteeism may result in disciplinary action.

Section 125.340. Tardiness

Employees are expected to arrive on time and ready for work. An employee who arrives after their scheduled arrival time is considered tardy. The City recognizes that situations arise which hinder punctuality; regardless, excessive tardiness is prohibited, and may be subject to disciplinary action.

Section 125.350. Breaks

The time and scheduling of on duty breaks shall be determined by each supervisor so as to meet the needs of daily internal operations. Each employee is entitled to one fifteen (15)-minute break per four (4) hours of duty. The Fair Labor Standards Act (F.L.S.A.) does not require that employees be given rest periods, but if rest periods are provided, they must be counted as hours worked if they are less than twenty (20) minutes in length. Periods for lunch are to be scheduled for one (1) hour and may be staggered, if necessary, to meet departmental needs.

Article Vl. Leave Policies

Section 125.360 Vacations

The City provides, as a benefit, paid vacations for its eligible employees. Forward requests for time off in advance to a supervisor, who may approve or deny the request based on City resources. The City is flexible in approving time off when doing so would not interfere with City operations. Vacation days are granted only on a full day or half-day basis.

All full-time employees shall accrue vacation leave at the rate of **forty (40) hours** per year after completion of one year service, **eighty (80) hours** per year after completion of three (3) years of service, and **one hundred twenty (120) hours** per year after completion of ten (10) years of service with the City. Length of service is based on continuous City employment on the anniversary date (date of hire).

Vacations should be scheduled throughout the year considering the employee's personal wishes and the necessity of continuous, efficient, City operations. Ordinarily, vacations should be taken in units of a week or weeks; however, the City Administrator and/or supervisor may use his/her discretion in granting vacation leaves of shorter duration.

Unused vacation allowance may be paid to employees upon separation from the City provided the employee has completed at least one year of continuous service and provided that the employee's request for payment for unused vacation is included with the notice of resignation. Vacation may not be used as two-week resignation notice, unless requested and approved by the City Administrator.

A maximum of forty (40) hours unused vacation time may be carried over into the next year at each employee's anniversary date. Unused vacation time cannot be sold back to the city, with the exception of two (2) weeks of vacation time at the time of termination. Vacation leave may not be taken in advance of earning the credit.

Section 125.370. Sick/Personal Leave

Situations may arise where an employee needs to take time off to address medical or other personal concerns. The City requests that employees provide notification to their supervisor as soon as practicable when taking time off. Time is granted on a paid basis to regular employees. Employees will receive thirty-two (32) hours of paid time off per year at the beginning of the fiscal year, November 1st. Sick days may not be carried over into the next year, however remaining hours will be paid out by the city at half (1/2) the current balance on October 31st each year. During the first year of employment, the city will offer sick time accrued at approximately 2.66 hours per month until November 1st is reached.

Section 125.380. Family and Medical Leave Act Leave

The City offers leave consistent with the requirements of the federal Family and Medical Leave Act (FMLA). Under the FMLA, an employee may be eligible for an unpaid family and medical leave of absence under certain circumstances.

Under the federal FMLA, a person who has worked as an employee of this City for at least 1,250 hours for twelve months is eligible for FMLA leave. Up to twelve weeks of unpaid leave per year is available for the following reasons:

- The birth of a child and to care for the newborn child;
- Placement of a child into adoptive or foster care with the employee;
- Care for a spouse, son, daughter or parent who has a serious health condition; or
- Care for the employee's own serious health condition.

If the need for leave is foreseeable, employees should notify a supervisor thirty (30) days prior to taking FMLA leave. If the need for FMLA leave arises unexpectedly, employees should notify a supervisor as soon as practicable, giving as much notice to the City as possible.

Employees may be required to provide: medical certifications supporting the need for leave if the leave is due to a serious health condition of the employee or employee's family member; periodic recertification of the serious health condition; and periodic reports during the leave regarding the employee's status and intent to return to work. Employees must return to work immediately after the serious health condition ceases, and employees who have taken leave because of their own serious health condition must submit a fitness-for-duty certification before being allowed to return to work.

Leave may be taken on an intermittent or reduced schedule to care for an illness; yet, may not be taken intermittently for the care of a newborn or newly adopted child. When leave is taken intermittently, the City may transfer the employee to another position with equivalent pay and benefits, which is better suited to periods of absence. Subject to certain conditions, the employee or the City may choose to use accrued paid leave (such as sick leave or vacation leave) concurrent with FMLA leave.

The City will maintain group health insurance coverage for an employee on family and medical leave on the same terms as if the employee had continued work. If applicable, arrangements will be made for the employee to pay their share of health insurance premiums while on leave. The City may recover premiums paid to maintain health coverage for an employee who fails to return to work from family and medical leave.

If an employee would like the City to maintain other paid benefits during the period of leave, premiums and charges which are partially or wholly paid by the employee must continue to be paid by the employee during the leave time.

Family and medical leave will not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. However, an employee on family and medical leave does not continue to accrue benefits (e.g., sick leave or vacation leave) during the period of family and medical leave. Questions regarding particular benefits should be directed to City Hall.

Upon returning from FMLA leave, an employee will be restored to his/her original job or an equivalent job with equivalent benefits, pay, seniority, and other employment terms and conditions as provided by the Family and Medical Leave Act.

Section 125.390. Holidays

A. All full-time employees are authorized nine (9) paid holidays per year. The holidays observed are as follows:

1. New Years Day
2. Good Friday
3. Memorial Day
4. Independence Day
5. Labor Day
6. Thanksgiving
7. Friday After Thanksgiving
8. Christmas Eve
9. Christmas

B. Holiday pay is defined as a benefit to all employees which provides compensation for time not worked on a holiday or additional compensation for scheduled time worked on the holiday.

C. All employees not required to work on a holiday shall be paid straight time for the eight (8)-hour holiday at their current rate of pay. Those employees who do work on holidays will be compensated for additional hours worked beyond the eight (8)-hour pay. Since the employee is not

required to work on the holiday, the hours spent off the job shall not be considered as “working times” as defined by the Fair Labor Standards Act.

Section 125.400. Jury Duty Time Off

An employee shall be granted an approved leave of absence from work if required to attend jury duty. It is expected the employee will provide the City with prior notice of jury duty. If released from such jury duty before the end of normal work shift, the employee shall return to work for the remainder of the shift. To be paid for jury leave, the employee must provide the City Clerk with a verification note from the Court Clerk for each day of jury duty.

Section 125.410. Voting Time Off

Employees are encouraged to participate in elections. The City grants incremental time off to cast a ballot in an election. Voting time off is granted on an unpaid basis. Should extenuating circumstances arise while voting, notify a supervisor as soon as possible.

Section 125.420. Military Leave

Employees may receive a leave of absence not to exceed fifteen (15) working days annually, for participation in annual training in the National Guard or Reserve Armed Forces, or called to temporary active duty. Requests for said leave must be accompanied by a copy of official orders.

Regular employees entering the active military service of the United States by draft, or by call to active duty through the Reserve or National Guard units, upon request, shall be granted a leave of absence without pay to extend for sixty (60) days beyond the date of discharge from active military service. At, or prior to, the expiration of the military leave of absence, the employee must inform the City Administrator and the supervisor of his/her willingness and ability to return to City employment and produce evidence of his/her honorable discharge from military service. The employee shall thereupon be returned to his/her former or capable position, providing that he/she is capable of carrying out the duties of the position. Employees granted military leave of absence may count such service as time spent on the job for seniority purposes.

Service personnel, who are called to active duty, shall be removed from the City’s group health coverage.

These persons will be allowed to purchase continuation coverage at the employee’s expense.

Section 125.430. Funeral Leave

A full-time employee will be allowed up to three (3) working days off with pay in the event of a death of an immediate family member. Immediate family is defined as spouse, children, father, mother, brother, sister, mother-in-law, father-in-law, son-in- law, daughter-in-law, grandparents of the employee or spouse, or any blood relative residing in the employee’s home.

With the supervisor’s approval, an employee may take time off from work to attend a funeral for persons other than immediate family members. In such cases, the employee must take the time off without pay or charge it against accrued vacation time or accrued compensatory time or personal/sick time.

Section 125.440. Leave of Absence

Regular full-time employees may request an unpaid leave of absence after the exhaustion of paid leave. A request for a leave of absence must be submitted in writing in advance to the employee's immediate supervisor.

Leave of absences that are granted are unpaid, and will not be considered until an employee has exhausted all appropriate accrued leave balances. Continuation of employee benefits during a leave of absence will be addressed on an individual basis, as required by law.

Article VII. Work Performance

Section 125.450. Expectations

The City expects every employee to act in a professional manner and show personal pride in the work they do. Satisfactory performance of job duties and responsibilities is key to this expectation. Employees should attempt to achieve their job objectives, and act with diligence and consideration at all times. Poor job performance can result in disciplinary action, up to and including termination. All employees should perform their duties to the best of their abilities and strive to leave every task as a good reflection upon the city and the employees as well.

Section 125.460. Reviews

The City may periodically evaluate an employee's performance. The goal of a performance review is to identify areas where an employee excels and areas that need improvement. The City uses performance reviews as a tool to determine pay increases, promotions and/or terminations.

All performance reviews are based on merit, achievement and other factors may include but are not limited to:

- Quality of work
- Attitude
- Knowledge of work
- Job skills
- Attendance and punctuality
- Teamwork and cooperation
- Compliance with City policy
- Past performance reviews
- Improvement
- Acceptance of responsibility and constructive feedback

Employees should note that a performance review does not guarantee a pay increase or promotion. Written performance evaluations may be made at any time to advise employees of unacceptable performance. Evaluations or any subsequent change in employment status, position or pay does not alter the employees at will-relationship with the City.

Forward any questions about performance expectation or evaluation to the supervisor conducting the evaluation.

Section 125.470. Insubordination

Supervisors and employees should interact with mutual respect and common courtesy. Employees are expected to take instruction from supervisors or other persons of authority. Failure to comply with

instructions or unreasonably delaying compliance is considered insubordination. Acts of insubordination are subject to disciplinary action, up to and including termination.

If an employee disagrees with a supervisor, the employee should first try to mediate the situation by explaining his/her position. If possible, a compromise might be met and accusations of insubordination avoided. If either the employee or the supervisor feels it necessary, they may request another officer or employee of the city to be present during the meeting. This may be deemed necessary to offer aid in mediation or to add an additional perspective or evidence to the claim.

Article VIII. Discipline Policy

Section 125.480. Grounds for Disciplinary Action

The City reserves the right to discipline and/or terminate any employee who violates City polices, practices or rules of conduct. Poor performance and misconduct are also grounds for discipline or termination.

The following actions are unacceptable and considered grounds for disciplinary action. This list is not comprehensive; rather, it is meant merely as an example of the types of conduct that this City does not tolerate. These actions include, but are not limited to:

- Engaging in acts of discrimination or harassment in the workplace;
- Possessing, distributing or being under the influence of illicit controlled substances;
- Being under the influence of a controlled substance or alcohol at work, on City premises, or while engaged in City business;
- Unauthorized use of City property, equipment, devices or assets;
- Damage, destruction or theft of City property, equipment, devices or assets;
- Removing City property without prior authorization or disseminating City information without authorization;
- Falsification, misrepresentation or omission of information, documents or records;
- Lying;
- Insubordination or refusal to comply with directives;
- Failing to adequately perform job responsibilities;
- Excessive or unexcused absenteeism or tardiness;
- Disclosing confidential or proprietary City information without permission; -
- Illegal or violent activity;
- Falsifying injury reports or reasons for leave;
- Possessing unauthorized weapons on premises;
- Disregard for safety and security procedures;

- Disparaging or disrespecting supervisors and/or co-workers; and
- Any other action or conduct that is inconsistent with City policies, procedures, standards or expectations.

This list exhibits the types of actions or events that are subject to disciplinary action. It is not intended to indicate every act that could lead to disciplinary action. The City reserves the right to determine the severity and extent of any disciplinary action based on the circumstances of each case.

Section 125.490. Disciplinary Procedures

Disciplinary action is any one of a number of options used to correct unacceptable behavior or actions. Discipline may take the form of oral warnings, written warnings, probation, suspension, demotion, discharge, removal or some other disciplinary action, in no particular order. The course of action will be determined by the City at its sole discretion as it deems appropriate.

The purpose of this policy is to provide steps of disciplinary action which become increasingly severe each time an offense is repeated and to allow appropriate discipline based on the severity of the offense. If the nature of the employee misconduct is severe – for example, theft, gross insubordination or drug usage – the first two disciplinary steps may be by-passed and the utilization of disciplinary suspension or termination may be appropriate. However, for less serious offenses or for repetitive problems – for example absenteeism or tardiness – then the first two steps may be more appropriate. Issues regarding poor performance will be subject to performance improvement counseling.

Verbal Warning

For minor infractions, the employee will be issued verbal warning. The infraction shall be explained to the employee, indicating the corrective steps to be taken to prevent re-occurrence. The supervisor should explain to the employee that any re- occurrence of the infraction will result in more severe disciplinary action. Verbal warning will be documented by the supervisor

Written Warning

For repeated minor infractions, or a more substantial infraction, the employee will be issued a written warning that misconduct has occurred and what corrective action must take place (copy attached). If the situation does not improve, the department supervisor may repeat the measure or take stronger disciplinary action. The written warning will be prepared following a disciplinary interview of the employee. The employee will be given an opportunity to comment in writing and will be asked to sign the notice, acknowledging receipt. Two copies of the notice will be distributed; one to the employee and one to the employee's personnel file.

Based upon the nature of the violation and at the discretion of the supervisor, the length of time a written warning will remain in the employee file will vary.

Notice of Disciplinary Action

This is the final step of the disciplinary process and the most severe. It should be implemented where the problem warrants immediate action or when the previous disciplinary actions have failed.

Possible disciplinary action which could occur based on the conference includes:

1. Suspension without pay

2. Demotion and reduction of pay

3. Termination

Upon receipt of the notice the employee has the following options:

1. Accept disciplinary action immediately and waive the right to a due process hearing.
2. Accept disciplinary action according to the stated effective date and waive the right to a due process hearing.
3. Request a due process hearing prior to the effective date of the impending action. An employee will receive pay for regularly scheduled work until the disciplinary action is complete, either by acceptance or final determination of the due process hearing.

Should events compel a department supervisor to take immediate action, the supervisor may place the employee on administrative leave with pay pending investigation or other action. With direction of the City Administrator the employee will be required to leave city premises and required to return any city property.

Employee Response

Employees have the opportunity to respond to any disciplinary action through the utilization of the appeal procedure.

Section 125.500. Employee Appeals and Grievance Procedures

Any employee who is suspended or discharged for disciplinary reasons by their supervisor may appeal to the Mayor and City Council. In case of suspension, if the employee notifies the City Administrator that he/she wishes to appeal, the suspension will not be scheduled until after a hearing. At such hearing with the Mayor and City Council, the employee has the right to appear in person and present their viewpoints.

After the hearing, any consideration of the case, the Mayor and City Council may recommend such action as deemed appropriate, including reducing or overturning the disciplinary action, or upholding it and ordering it into effect. The Mayor and City Council's decision shall be binding.

Any employee who has a complaint or grievance other than the one relating to disciplinary action, shall first notify his/her supervisor of the problem and the two shall attempt to reconcile the difficulty. If this fails to satisfy the parties involved, the employee shall then notify the City Administrator of the grievance.

If this too fails to resolve the question, then the employee may notify the City Council. The supervisor shall then prepare a written report, giving full details concerning the matter. This report shall be submitted to the City Council, which shall then hear the grievance and take action it deems appropriate by:

1. Accepting a request for the Council to change the Personnel Rules or City Ordinances; or
2. Recommending to the Mayor administrative action to resolve the difficulty.
3. Deeming the complaint invalid and take no further action.

Section 125.510. Termination

Employment with the City is on an at-will basis and may be terminated voluntarily or involuntarily at any time.

Upon termination, an employee is required:

- to continue to work until the last scheduled day of employment;
- to turn in all reports and paperwork required to be completed by the employee when due and no later than the last day of work;
- to return all files, documents, equipment, keys, access cards, software or other property belonging to the City that are in the employee's possession, custody or control, and turn in all passwords to his/her supervisor;
- to participate in an exit interview as requested by supervisor.

Section 125.520. Voluntary Termination

The City recognizes that personal situations may arise which require a voluntary termination of employment. Should this occur, the City requests that the employee provide two weeks advance notice in writing. This request does not alter an employee's at-will relationship with the City.

All rights and privileges of employment with the City terminate upon the date of separation. As further discussed in Section 125.510., terminating employees are required to return all City property assigned to them. Failure to do so may result in the withholding of the final paycheck.

Section 125.530. Final Paycheck

Employees who are terminated from the city will be given their final pay checks immediately, however wait time for check signers are not under the control of the city. Should the employee be unable to personally retrieve his/her paycheck, it will be mailed to the address on file. Final checks may be retained until such time as any city-owned property is returned.

Section 125.540. Exit Interview

The city may request an exit interview upon notice of termination. The purpose of the exit interview is to complete necessary forms, collect city property and discuss employment experiences with the city if they choose. Employees may choose not to discuss the specifics regarding their termination or any matters relating to their employment or personal matters; however, they will be required to return all city property directly to their supervisor and discuss any missing or damaged items prior to receiving a final paycheck.

Article IX. Health and Safety

Section 125.550. Workplace Safety

The City takes every reasonable precaution to ensure that employees have a safe working environment. Safety measures and rules are in place for the protection of all employees. Ultimately, it is the responsibility of each employee to help prevent accidents. To ensure the continuation of a safe workplace, all employees should review and understand all provisions of the city's workplace safety policy.

Employees should use all safety and protective equipment provided to them, and maintain work areas in a safe and orderly manner, free from hazardous conditions. Employees who observe an unsafe practice or condition should report it to a supervisor immediately. Employees are prohibited from making threats against anyone in connection with his/her work or engaging in violent activities while in the employ of the City. Any questions regarding safety and safe practices should be directed to the employee's supervisor.

In the event of an accident, employees must notify a supervisor immediately. Report every injury, regardless of how minor, to a supervisor immediately. Physical discomfort caused by repetitive tasks must also be reported. For more information about on the job injuries, refer to the worker's compensation section of this handbook.

Section 125.560. Cell Phone Use

Employees may not operate city vehicles while using cellular phones unless emergency circumstances exist and other means of communication are not available or suitable. Cell phone use for personal business is not allowed when using City vehicles unless and only if emergency situations arise. Under non-emergency situations, and when possible, employee drivers (safety being foremost consideration) should drive to a safe location when using either personal or business cellular phones. (The shoulder of a roadway is not considered a safe location with respect to this policy). Hands-free operational devices may be used as an alternative (safety being foremost consideration), when authorized and available.

Section 125.570. Workplace Security

Employees must be alert and aware of any potential dangers to themselves or their coworkers. Take every precaution to ensure that your surroundings are safe and secure. Guard personal belongings and City property. Visitors should be escorted at all times. Report any suspicious activity to a supervisor immediately.

Section 125.580. Emergency Procedures

In the event of an emergency, dial 911 immediately. If you hear a fire alarm or other emergency alert system, proceed quickly and calmly to the nearest exit. Once the building has been evacuated, only a supervisor may authorize employees to reenter.

All employees are required to follow safe work practices. Instructions from a supervisor regarding safety are to be followed strictly.

Section 125.590. Protective Gear

If required by their supervisor, employees must wear protective gear, including hard hats, safety vests, etc., when performing any potentially dangerous duty. Safety goggles are provided and should be worn on all jobs in the Public Works Department.

Supervisors have full authority to order the wearing of protective equipment at any time.

Section 125.600. Seat Belt Use

The city values the lives and safety of our employees. Because it is estimated that seat belts reduce the risk of dying in a motor vehicle crash by forty-five (45) percent, the city has adopted the following policy concerning employee seat belt usage.

In addition to following all traffic regulations, all employees and their passengers are required to use a seat belt when traveling in any vehicle while in the course of conducting city business. The requirement applies to business travel in a vehicle owned by the city, in a rental vehicle and in a vehicle owned by an individual employee, regardless of whether the employee is compensated for the use of his/her vehicle.

The use of seat belts is to be considered a condition of employment and a requirement by our workman's compensation insurance as well as our fleet insurance. Failure to abide by this stated policy will be considered a breach of that condition of employment and subject to disciplinary action, including suspension and possible termination.

Article X. Employee Benefits

Section 125.610. Health Insurance

The City makes group health benefits available to eligible employees and their family members. Eligible employees are full time employees who have completed their probationary period. Provided insurance consists of life, medical, dental, and vision.

Health benefits are paid in full by the city for the employee only. The costs for family members are the employee's responsibility. Employees can receive details about benefits provided, additional rates and eligibility from City Hall.

Section 125.620. Workers' Compensation

As required by law, the City provides workers' compensation benefits for the protection of employees with work-related injuries or illnesses.

Workers' compensation insurance provides coverage to employees who receive job- related injuries or illnesses. If an employee is injured or becomes ill as a result of his/ her job, it is the employee's responsibility to immediately notify a supervisor of his/ her injury in order to receive benefits. Report every illness or injury to a supervisor, regardless of how minor it appears. The City will advise the employee of the procedure for submitting a workers' compensation claim. If necessary, injured employees will be referred to a medical care facility. Employees should retain all paperwork provided to them by the medical facility. Failure to report a work-related illness or injury promptly could result in denial of benefits. An employee's report should contain as many details as possible, including the date, time, description of the illness or injury, and the names of any witnesses.

Section 125.630. Longevity Plan

The City appreciates loyalty and dedication from its employees and offers a longevity plan to compensate those who serve beyond ten (10) years of full-time service. To be eligible employees should work at full time status without any separations during their term of employment. Leaves of absence recognized in this policy manual will be an exception to interrupted employment.

Longevity pay will be given beginning on the employees tenth (10th) anniversary of their hiring date and paid on the next pay cycle after that date. The compensation will be figured as follows...

10th Thru 14th Year	1% of yearly base salary
15th Thru 19th Year	2% of yearly base salary

20th and beyond 3% of yearly base salary

Examples:

A. $25,000.00/year salary would generate $250.00 year in the 13th year.

B. $20,000.00 /year salary would generate $400.00 year in the 17th year.

Section 125.640. Employee Retirement Plan

The City offers an Individual Retirement Plan through Edward Jones Financial for all employees who have completed their probation period. Employees may elect to have any percentage or amount withheld from their pay to be deposited monthly (within annual legal limits). The city will match each employee up to three (3) percent of their paycheck to be deposited along with the employee's contribution. Each employee will be responsible for managing their account privately through Edward Jones and must consult with an agent as to how they wish to invest in these funds. Once a monthly deposit has been made by the city any and all changes to the account must be handled through the account agent.

Chapter 130. Conflicts of Interest

Section 130.010. Declaration of Policy.

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

Section 130.020. Conflicts of Interest.

A. All elected and appointed officials as well as employees of a political subdivision must comply with Section 105.454, RSMo., on conflicts of interest as well as any other State law governing official conduct.

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

1. Ten percent (10%) or more of any business entity; or
2. An interest having a value of ten thousand dollars ($10,000.00) or more; or
3. The receipt of a salary, gratuity, or other compensation or remuneration of five thousand dollars ($5,000.00) or more per year from any individual, partnership, organization, or association within any calendar year.

Section 130.030. Disclosure Reports.

A. Each elected official, candidate for elective office, the Chief Administrative Officer, the Chief Purchasing Officer, and the full-time general counsel shall disclose the following information by May first (1st), or the appropriate deadline as referenced in Section 105.487, RSMo., **if** any such transactions occurred during the previous calendar year:

1. For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars ($500.00), if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the political subdivision, and other than transfers for no consideration to the political subdivision.

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

3. The Chief Administrative Officer, Chief Purchasing Officer, and candidates for either of these positions also shall disclose by May first (1st), or the appropriate deadline as referenced in Section 105.487, RSMo., the following information for the previous calendar year:

a. The name and address of each of the employers of such person from whom income of one thousand dollars ($1,000.00) or more was received during the year covered by the statement;

b. The name and address of each sole proprietorship that he owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he was a partner or participant; the name and address of each partner or co-participant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the Secretary of State; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent (10%) or more of any class of the outstanding stock or limited partnership units; and the name of any publicly traded corporation or limited partnership that is listed on a regulated stock exchange or automated quotation system in which the person owned two percent (2%) or more of any class of outstanding stock, limited partnership units or other equity interests;

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

Section 130.040. Filing of Reports.

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

1. Every person required to file a financial interest statement shall file the statement annually not later than May first (1st) and the statement shall cover the calendar year ending the immediately preceding December thirty-first (31st); provided that any member of the Council may

supplement the financial interest statement to report additional interests acquired after December thirty-first (31st) of the covered year until the date of filing of the financial interest statement.

2. Each person appointed to office shall file the statement within thirty (30) days of such appointment or employment covering the calendar year ending the previous December thirty-first (31st);

3. Every candidate required to file a personal financial disclosure statement shall file no later than fourteen (14) days after the close of filing at which the candidate seeks nomination or election or nomination by caucus. The time period of this statement shall cover the twelve (12) months prior to the closing date of filing for candidacy.

B. Financial disclosure reports giving the financial information required in Section 130.030 shall be filed with the local political subdivision and with the Missouri Ethics Commission. The reports shall be available for public inspection and copying during normal business hours.

Section 130.050. Penalty.

Any person obligated to file a financial interest statement who fails to do so within the time specified shall be subject to a fine of up to five hundred dollars ($500.00). In addition to said fine, any candidate for City elective office who fails to file a financial interest statement within the time specified shall be subject to disqualification as a candidate for such elective office. In addition to said fine, any elected official who fails to file a financial interest statement within the time specified shall be subject to removal from office under the procedures set forth elsewhere in the City Code.

Section 130.060– Filing of Ordinance

A certified copy of the ordinance(order/resolution), adopted prior to September 15th, shall be sent with in ten days of its adoption to the Missouri Ethics Commission every two years.

Chapter 135. Municipal Court

Article I. General Provisions

Section 135.010. Court Established.

There is hereby established in the City of Carterville a Municipal Court to be known as the "Carterville Municipal Court, a Division of the 29th Judicial Circuit Court of the State of Missouri".

Section 135.020. Jurisdiction.

The jurisdiction of the Municipal Court shall extend to all cases involving alleged violations of the ordinances of the City.

Section 135.030. Selection of Municipal Judge.

The Judge of the City's Municipal Court shall be known as a Municipal Judge of the Carterville Judicial Circuit Court and shall be selected by appointment to the position by the Mayor with approval of a majority of the members of the City Council for a term as specified herein.

Section 135.040. Municipal Judge — Term of Office.

The Municipal Judge shall hold his/her office for a period of at least two (2) years. If for any reason a Municipal Judge vacates his/her office, his/her successor shall complete that term of office, even if the same be for less than two (2) years.

Section 135.050. Municipal Judge — Vacation of Office.

A. The Municipal Judge shall vacate his/her office under the following conditions:

1. Upon removal from office by the State Commission on the Retirement, Removal and Discipline of Judges as provided in Missouri Supreme Court Rule 12;
2. Upon attaining his/her seventy-fifth (75th) birthday; or
3. If he/she should lose his/her license to practice law within the State of Missouri.

Section 135.060. Municipal Judge — Qualifications For Office.

A. The Municipal Judge shall possess the following qualifications before he/she shall take office:

1. He/she must be a licensed attorney, qualified to practice law within the State of Missouri.
2. He/she need not reside within the City.
3. He/she must be a resident of the State of Missouri.
4. He/she must be between the ages of twenty-one (21) and seventy-five (75) years.
5. He/she may serve as a Municipal Judge for any other municipality.
6. He/she may not hold any other office within the City Government.
7. The Municipal Judge shall be considered holding a part-time position and as such may accept other employment.

Section 135.070. Superintending Authority.

The Municipal Court of the City shall be subject to the rules of the Circuit Court of which it is a part and to the rules of the State Supreme Court. The Municipal Court shall be subject to the general administrative authority of the Presiding Judge of the Circuit Court, and the Judge and Court personnel of said Court shall obey his/her directives.

Section 135.080. Report To City Council.

The Municipal Judge shall cause the Court Clerk to prepare, each month, a report indicating the following:

A list of all cases heard or tried before the Judge during the preceding month, giving in each case the name of the defendant, the fine imposed if any, the amount of costs, the names of defendants committed, and the cases in which there was an application for trial de novo, respectively. The Municipal Court shall, within the ten (10) days after the first (1st) of the month, pay to the Municipal Treasurer the full amount of all fines collected during the preceding month, if not previously paid to the Municipal Treasurer.

Section 135.090. Docket and Court Records.

The Municipal Judge shall be a conservator of the peace. He/she shall keep a docket in which he/she shall enter every case commenced before him/her and the proceedings therein and he/she shall keep such other records as may be required. Such docket and records shall be records of the Circuit Court of Jasper County. The Municipal Judge shall deliver said docket, records and all books and papers pertaining to his/her office to his/her successor in office or to the Presiding Judge of the Circuit.

Section 135.100. Municipal Judge — Powers and Duties Generally.

A. The Municipal Judge shall be and is hereby authorized to:

1. Establish a Violations Bureau as provided for in the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and Section 479.050, RSMo.

2. Administer oaths and enforce due obedience to all orders, rules and judgments made by him/her and may fine and imprison for contempt committed before him/her while holding Court in the same manner and to the same extent as a Circuit Judge.

3. Stay execution of any fine or sentence, suspend any fine or sentence, and make such other orders as the Municipal Judge deems necessary relative to any matter that may be pending in the Municipal Court.

4. Make and adopt such rules of practice and procedure as are necessary to implement and carry out the provisions of this Chapter, and to make and adopt such rules of practice and procedure as are necessary to hear and decide matters pending before the Municipal Court, and to implement and carry out the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts.

5. The Municipal Judge shall have such other powers, duties and privileges as are or may be prescribed by the laws of this State, this Code or other ordinances of this City.

Section 135.110. Compensation.

The Municipal Judge for the City of Carterville shall be paid a sum as fixed by ordinance from time to time.

Section 135.115. Prosecutions Based On Information Only, Proceedings.

All prosecutions for the violation of municipal ordinances shall be instituted by information and may be based upon a complaint. Proceedings shall be in accordance with the supreme court rules governing practice and procedure in proceedings before Municipal Judges.

Section 135.120. Violations Bureau.

Should the Municipal Judge determine that there shall be a Violations Bureau, the City shall provide all expenses incident to the operation of the same.

Section 135.130. Issuance and Execution of Warrants.

All warrants issued by a Municipal Judge shall be directed to the Chief of Police or any other Police Officer of the municipality or to the Sheriff of the County. The warrants shall be executed by the Chief of Police, Police Officer or Sheriff at any place within the limits of the County and not elsewhere,

unless the warrants are endorsed in the manner provided for warrants in criminal cases and, when so endorsed, shall be served in other Counties as provided for in warrants in criminal cases.

Section 135.140. Arrests Without Warrants.

The Chief of Police or other Police Officer of the City may, without a warrant, make arrest of any person who commits an offense in his/her presence, but such officer shall, before the trial, file a written complaint with the Judge hearing violations of municipal ordinances.

Section 135.150. Jury Trials.

Any person charged with a violation of a municipal ordinance of this City shall be entitled to a trial by jury as in prosecutions for misdemeanors before an Associate Circuit Court Judge. Whenever a defendant accused of a violation of a municipal ordinance has a right to and demands such trial by jury, the Municipal Court shall certify the case to the Presiding Judge of the Circuit Court for reassignment.

Section 135.160. Duties of The City's Prosecuting Attorney.

It shall be the duty of an attorney designated by the City to prosecute the violations of the City's ordinances before the Municipal Judge or before any Circuit Judge hearing violations of the City's ordinances. The salary or fees of the attorney and his/her necessary expenses incurred in such prosecutions shall be paid by the City. The compensation of such attorney shall not be contingent upon the number of cases tried, the number of guilty verdicts reached, or the amount of fines imposed or collected.

Section 135.170. Summoning of Witnesses.

It shall be the duty of the Municipal Judge to summon all persons whose testimony may be deemed essential as witnesses at the trial and to enforce their attendance by attachment, if necessary. The fees of witnesses shall be the same as those fixed for witnesses in trials before Associate Circuit Court Judges and shall be taxed as other costs in the case. When a trial shall be continued by a Municipal Judge, it shall not be necessary to summon any witnesses who may be present at the continuance, but the Municipal Judge shall orally notify such witnesses as either party may require to attend before him/her on the day set for trial to testify in the case and enter the names of such witnesses on his/her docket, which oral notice shall be valid as a summons.

Section 135.180. Transfer of Complaint To Associate Circuit Judge.

If, in the progress of any trial before the Municipal Judge, it shall appear to the Judge that the accused ought to be put upon trial for an offense against the criminal laws of the State and not cognizable before him/her as Municipal Judge, he/she shall immediately stop all further proceedings before him/her as Municipal Judge and cause the complaint to be made before some Associate Circuit Court Judge of the County.

Section 135.190. Jailing of Defendants.

If, in the opinion of the Municipal Judge, the City has no suitable and safe place of confinement, the Municipal Judge may commit the defendant to the County Jail, and it shall be the duty of the Sheriff, if space for the prisoner is available in the County Jail, upon receipt of a warrant of commitment from the Judge to receive and safely keep such prisoner until discharged by due process of law. The municipality shall pay the board of such prisoner at the same rate as may now or hereafter be allowed by law to such Sheriff for the keeping of other prisoners in his/her custody.

Section 135.200. Parole and Probation.

A. Any Judge hearing violations of municipal ordinances may, when in his/her judgment it may seem advisable, grant a parole or probation to any person who shall plead guilty or who shall be convicted after a trial before such Judge. When a person is placed on probation, he/she shall be given a certificate explicitly stating the conditions on which he/she is being released.

B. In addition to such other authority as exists to order conditions of probation, the Court may order conditions which the Court believes will serve to compensate the victim of the crime, any dependent of the victim, or society in general. Such conditions may include, but need not be limited to:

1. Restitution to the victim or any dependent of the victim in an amount to be determined by the Judge; and

2. The performance of a designated amount of free work for a public or charitable purpose or purposes as determined by the Judge.

C. A person may refuse probation conditioned on the performance of free work. If he/she does so, the Court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any County, City, person, organization or agency or employee of a County, City, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the person placed on parole or probation or any person deriving a cause of action from him/her if such cause of action arises from such supervision of performance, except for intentional torts or gross negligence. The services performed by the probationer or parolee shall not be deemed employment within the meaning of the provisions of Chapter 288, RSMo.

D. The Court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

Section 135.210. Right of Appeal.

In any case tried before the Municipal Judge, except where there has been a plea of guilty or where the case has been tried with a jury, the defendant shall have a right of trial de novo before a Circuit Court Judge or upon assignment before an Associate Circuit Court Judge. An application for a trial de novo shall be filed within ten (10) days after judgment and shall be filed in such form and perfected in such manner as provided by Supreme Court rule.

Section 135.220. Appeal From Jury Verdicts.

In any case tried with a jury before an Associate Circuit Judge, a record of the proceedings shall be made, and appeals may be had upon that record to the appropriate Appellate Court.

Section 135.230. Breach of Recognizance.

In the case of a breach of any recognizance entered into before a Municipal Judge or an Associate Circuit Court Judge hearing a municipal ordinance violation case, the same shall be deemed forfeited and the Judge shall cause the same to be prosecuted against the principal and surety, or either of them, in the name of the municipality as plaintiff. Such action shall be prosecuted before a Circuit Court Judge or Associate Circuit Court Judge, and in the event of cases caused to be prosecuted by a Municipal Judge, such shall be on the transcript of the proceedings before the Municipal Judge. All

monies recovered in such actions shall be paid over to Municipal Treasury to the General Revenue Fund of the municipality.

Section 135.240. Disqualification of Municipal Judge From Hearing A Particular Case.

A Municipal Judge shall be disqualified to hear any case in which he/she is in any way interested or, if before the trial is commenced, the defendant or the prosecutor files an affidavit that the defendant or the municipality, as the case may be, cannot have a fair and impartial trial by reason of the interest or prejudice of the Judge. Neither the defendant nor the municipality shall be entitled to file more than one (1) affidavit or disqualification in the same case.

Section 135.250. Absence of Judge — Procedure.

If a Municipal Judge be absent, sick or disqualified from acting pursuant to the general administrative authority of the Presiding Judge of the Circuit Court over the Municipal Divisions within the circuit contained in Section 478.240, RSMo., a special Municipal Judge may be designated in accordance with the provisions of Section 479.230, RSMo., until such absence or disqualification shall cease.

Section 135.260. Failure To Appear in Municipal Court.

A. A person commits the offense of failure to appear in Municipal Court if:

1. He/she has been issued a summons for a violation of any ordinance of the City of Carterville and fails to appear before the Judge of the Municipal Court at the time and on the date on which he/she was summoned, or at the time or on the date to which the case was continued;

2. He/she has been released upon recognition of bond and fails to appear before the Judge of the Municipal Court at the time and on the date on which he/she was summoned, or at the time or on the date to which the case was continued;

3. He/she has been placed on Court supervised probation and fails to appear before the Judge of the Municipal Court at the time specified by said Judge as a condition of the probation.

Article II. Court Clerk

Section 135.270. Office Established.

There is hereby established the office of Court Clerk for the City of Carterville Municipal Division of the Jasper County Circuit Court.

Section 135.280. Selection and Term of Court Clerk.

The Court Clerk shall be appointed by the Mayor with the consent of a majority of the members of the City Council to serve for an unspecified term at the will of the Mayor and City Council.

Section 135.290. Hours and Authorization of Compensation.

The Court Clerk shall attend all sessions of the Carterville Municipal Division of the 29th Judicial Circuit Court and may be required to be present at the Carterville, City Hall to perform the duties of the office at such additional times as the Mayor or City Council may specify. Compensation for the Court Clerk shall be established by ordinance from time to time.

Article III. Fines and Court Costs

Section 135.300. Installment Payment of Fine.

When a fine is assessed for violation of an ordinance, it shall be within the discretion of the Judge assessing the fine to provide for the payment of the fine on an installment basis under such terms and conditions as he/she may deem appropriate.

Section 135.310. Court Costs.

A. In addition to any fine that may be imposed by the Municipal Judge in any case filed in the Carterville Municipal Division of the 29th Judicial Circuit Court, and in addition to all other fees authorized or required by law, there shall be assessed as costs the following:

1. Costs of Court in the amount of twelve dollars ($12.00), of which one dollar ($1.00) is for the Judicial Education Fund. The City shall not retain for training purposes more than one thousand five hundred dollars ($1,500.00) of such funds for each court clerk and judge. Any excess funds shall be transmitted yearly to the City's General Fund.

   a. The agreement by and between the Missouri Office of State Court's Administration and the City of Carterville, Missouri, regarding services relating to the Justice Information System implementation process has been approved by the city.

   b. In addition to any costs which may be assessed by the Municipal Division, pursuant to Statute, Ordinance, or Court Rule, in every proceeding filed in the Municipal Division for violation of an ordinance, a surcharge of seven dollars ($7.00) shall be assessed. Such surcharge shall be assessed in cases in which a plea of guilty are processed in the Traffic Violations Bureau. No such surcharge shall be collected when the proceeding or defendant has been dismissed by the court, when costs are waived or when costs are paid by the city. Such surcharge shall be collected by the Municipal Court and paid monthly to the Missouri Director of Revenue to the credit of the Missouri Statewide Court Automation Fund. As provided in RSMO 488.012.3(5) and Section 488.027.2, and RSMO 476.056.

2. *Police Officer training fees.* Fees are hereby established and assessed as additional Court costs in each Court proceeding, except that no such fee shall be collected when the proceedings against the defendant have been dismissed. Fees are listed on Section a. and Section b.

   a. Two dollars ($2.00) of each such Court cost shall be transmitted monthly to the Treasurer of the City and used to pay for Police Officer training as provided by Sections 590.100 to 590.180, RSMo. The City shall not retain for training purposes more than one thousand five hundred dollars ($1,500.00) of such funds for each certified Law Enforcement Officer or candidate for certification employed by the City. Any excess funds shall be transmitted yearly to the City's General Fund.

   b. One dollar ($1.00) of each such Court cost shall be sent to the State Treasury to the credit of the Peace Officers Standards and Training Commission Fund created by Section 590.178, RSMo.

3. *Crime Victims' Compensation Fund.* An additional sum of seven dollars fifty cents ($7.50) shall be assessed and added to the basic costs in Subparagraph (1) of this Section, provided that no such cost shall be collected in any proceeding when the proceeding or the defendant has been

dismissed by the Court. All sums collected pursuant to this Subparagraph shall be paid at least monthly as follows:

a. Ninety-five percent (95%) of such fees shall be paid to the Director of Revenue of the State of Missouri for deposit as provided in Section 595.045.5, RSMo.

b. Five percent (5%) shall be paid to the City Treasury.

NOTE: *Sections 4 and 5* (repealed 07/6/22 ord.2988)

Section 135.315. Recoupments/Restitution

1. Actual costs assessed against the City by the County Sheriff confinement in the County Jail or costs assessed against the City by any other detention facility. Upon receipt of such additional costs authorized by this Subparagraph, the City Treasurer shall retain such costs in a separate fund to be known as the "DWI/Drug Offense Cost Reimbursement Fund". Monies with such fund shall be appropriated by the City Council to the Police Department in amounts equal to those costs so collected and shall be used by such department specifically to enhance and support the enforcement and prosecution of alcohol- and drug-related traffic laws within the City.

2. *Reimbursement of certain costs of arrest.*

a. Such costs hereby authorized shall include the reasonable cost of making the arrest, including the cost of any chemical test made as authorized or required by law or ordinance to determine the alcohol or drug content of the person's blood, and the costs of processing, charging, booking and holding such person in custody.

b. The Chief of Police may establish a schedule of such costs hereby authorized and shall submit the same to the Municipal Judge. However, the Court may order the costs reduced if it determines that the costs are excessive.

Article IV. Administrative Search Warrants

Section 135.320. Administrative Search Warrants.

A. *Warrant Defined—Who May Issue, Execute.*

1. An *"administrative warrant"* is a written order of the Municipal Judge permitting the entry of City officials on or into private property to enforce the City's housing, zoning, health and safety regulations when government entry on or into such private property is otherwise authorized by Missouri law. A warrant may issue only in conformance with this Section and only for the enforcement of the City's housing, zoning, health and safety regulations, specifically:

a. To inspect private property to determine or prove the existence of physical conditions in violation of a specified regulation;

b. To seize, photograph, copy or record evidence of such physical conditions; and

c. To abate such physical conditions.

2. The Municipal Judge, having original and exclusive jurisdiction to determine violations against the ordinances of the municipality, may issue an administrative warrant when:

a. The property or place to be entered, searched or inspected or the thing to be seized is located within the City at the time of the making of the application; and

b. The owner or occupant of the property or place to be entered, searched or inspected or the thing to be seized.

(1) Has refused to allow same after official request by the City; or

(2) Is not available, after reasonable investigation and effort, to consent to such search or inspection.

3. Any such warrant shall be directed to the Chief of Police or any other Police Officer of the City and shall be executed by the Chief of Police or said Police Officer, in conjunction with Code Enforcement Officer or other appropriate City Official, within the City limits and not elsewhere.

B. *Who May Apply For Warrant—Contents Of Application.*

1. Any Code Enforcement Officer, Police Officer or attorney of the City may make application to the Municipal Judge for the issuance of an administrative warrant.

2. The application shall:

a. Be in writing;

b. State the time and date of the making of the application;

c. Identify the property or places to be entered, searched, inspected or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

d. State that the owner or occupant of the property or places to be entered, searched, inspected or seized:

(1) Has been requested by the City to allow such action and has refused to allow such action; or

(2) is not available, after reasonable investigation and effort, to consent to such search or inspection;

e. State facts sufficient to show probable cause for the issuance of a warrant:

(1) To search or inspect for violations of an ordinance or Code Section specified in the application; or

(2) To show that entry or seizure is authorized and necessary to enforce an ordinance or Code Section specified in the application and that due process has been afforded prior to the entry or seizure;

f. Be verified by the oath or affirmation of the applicant; and

g. Be signed by the applicant and filed in the Municipal Court.

3. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a warrant and in filling out any deficiencies in the description of the property or place to be

searched or inspected. Oral testimony shall not be considered. The application may be submitted by facsimile or other electronic means.

C. *Hearing And Procedure—Contents Of Warrant——Execution And Return.*

1. *Hearing and procedure.*

a. The Municipal Judge shall determine whether probable cause exists to inspect or search for violations of any City ordinance or Code Section or to enforce any such ordinance or Code Section.

b. In doing so the Municipal Judge shall determine whether the action to be taken by the City is reasonable in light of the facts stated. The Municipal Judge shall consider the goals of the ordinance or Code Section sought to be enforced and such other factors as may be appropriate, including, but not limited to, the physical condition of the specified property, the age and nature of the property, the condition of the area in which the property is located, the known violation of any relevant City ordinance or Code Section, the passage of time since the property's last inspection and the authority authorizing government entry onto private property. The standard for issuing a warrant need not be limited to actual knowledge of an existing violation of a City ordinance or Code Section.

c. If it appears from the application and any supporting affidavit that there is probable cause to inspect or search for violations of any City ordinance or Code Section or to enforce any such ordinance or Code Section, a warrant shall immediately be issued.

d. The warrant shall issue in the form of an original and two (2) copies and the application, any supporting affidavit and one (1) copy of the warrant as issued shall be retained in the records of the Municipal Court.

2. *Contents of warrant.* The warrant shall:

a. Be in writing and in the name of the City;

b. Be directed to any Police Officer in the City;

c. State the time and date the warrant was issued;

d. Identify the property or places to be searched, inspected or entered upon in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

e. Command that the described property or places be searched or entered upon and that any evidence of any suspected City ordinance violations or any pertinent property conditions found therein or thereon be seized, recorded or photographed and a description of such property be returned, within ten (10) days after filing of the application, to the Clerk of the Municipal Court, to be dealt with according to law;

f. Be signed by the Judge, with his/her title of office indicated.

3. *Execution and return.*

a. A warrant issued under this Section shall be executed only by a City Police Officer, provided however, that one (1) or more designated City Officials may accompany the officer and the warrant shall be executed in the following manner:

(1) The warrant may be issued by facsimile or other electronic means.

(2) The warrant shall be executed by conducting the search, inspection, entry or seizure as commanded and shall be executed as soon as practicable and in a reasonable manner.

(3) The officer shall give the owner or occupant of the property searched, inspected or entered upon a copy of the warrant.

(4) *Itemized receipt for seized property.*

(a) If any property is seized incident to the search, the officer shall give the person from whose possession it was taken, if the person is present, an itemized receipt for the property taken. If no such person is present, the officer shall leave the receipt at the site of the search in a conspicuous place.

(b) A copy of the itemized receipt of any property taken shall be delivered to an attorney for the City within two (2) working days of the search.

(c) The disposition of property seized pursuant to a warrant under this Section shall be in accordance with an applicable City ordinance or Code Section, but in the absence of same, then with Section 542.301, RSMo.

(5) The officer may summon as many persons as he/she deems necessary to assist him/her in executing the warrant and such persons shall not be held liable as a result of any illegality of the search and seizure.

(6) An officer making a search pursuant to an invalid warrant, the invalidity of which is not apparent on its face, may use such force as he/she would be justified in using if the warrant were valid.

(7) A warrant shall expire if it is not executed and the required return made within ten (10) days after the date of the making of the application.

4. *After execution—return to be delivered to the Court.*

a. After execution of the warrant, the warrant, with a return thereon signed by the officer making the search, shall be delivered to the Municipal Court.

b. The return shall show the date and manner of execution and the name of the possessor and of the owner, when not the same person, if known, of the property or places searched or seized.

c. The return shall be accompanied by any photographs, copies or recordings made and by any property seized, along with a copy of the itemized receipt of such property required by this Section; provided however, that seized property may be disposed of as provided herein and in such a case a description of the property seized shall accompany the return.

d. The Court Clerk, upon request, shall deliver a copy of the return to the possessor and the owner, when not the same person, of the property searched or seized.

D. *Warrant Invalid, When.* A warrant shall be deemed invalid:

1. If it was not issued by the Municipal Judge;

2. If it was issued without a written application having been filed and verified;

3. If it was issued without sufficient probable cause in light of the goals of the ordinance to be enforced and such other factors as provided in Subsection (C)(1)(b) hereof;

4. If it was not issued with respect to property or places in the City;

5. If it does not describe the property or places to be searched, inspected, entered upon or seized with sufficient certainty;

6. If it is not signed by the Judge who issued it; or

7. If it was not executed and the required return made within ten (10) days after the date of the making of the application.

Chapter 140. Boards and Committees

Article I. Park and Recreation Committee

Section 140.010. Established — Purpose — Composition — Appointment and Qualifications of Members.

There is hereby created a committee of nine (9) members to be known as the Parks and Recreation Committee which shall have charge of the City parks and recreational facilities. The members of the Committee shall be appointed by the Mayor with the approval of the City Council, and they shall be chosen from the citizens of the City at large with reference to their fitness for such office, provided that no member or employee of the City Government shall be a member of the Park Committee other than one (1) liaison who shall report to Council, but shall have no vote among the committee.

Section 140.020. When Members Appointed — Term of Office — How Vacancies Filled.

The members of the Parks and Recreation committee shall be appointed or removed for cause each year during the regular meeting of council in the month of May. The Mayor shall appoint the members with the appointments confirmed by vote of the council. Members shall hold office at the discretion of the council until a successor is appointed and qualified; and vacancies on the committee, occasioned by any cause, shall be filled in the same manner.

Section 140.030. Annual Meeting — Officers.

As soon as practicable each year after the qualification of any new members, the Park committee shall meet and elect a President, Vice President, and a Secretary-Treasurer. The President shall be the Presiding Officer of the committee and it shall be his/her duty to preside over the committee and perform such executive duties as may be required of him/her. In the absence of the President, it shall be the duty of the Vice President to fulfill the obligations of the President. It shall be the duty of the Secretary-Treasurer to keep a record of the meetings, regular and special, of the committee, to keep a record of its expenditures and accounts and the purposes thereof, and to perform such other duties as may be required.

Section 140.040. Bylaws, Rules and Regulations.

The Parks and Recreation committee shall make and adopt such bylaws, rules and regulations for their guidance and for the government of the City parks as may be expedient, not inconsistent with State law or this Code or other City ordinance, and as approved by the City Council. The parks and recreation bylaws shall become an appendix to the city code and available for public viewing.

Section 140.050. Regular and Special Meetings.

The Parks and Recreation committee shall hold regular meetings once each month and may hold such special meetings from time to time as they may deem necessary upon the call of the President on the demand of three (3) or more of the members thereof.

Section 140.060. Powers and Duties — Generally.

The Parks and Recreation committee shall have full and complete charge of the operation, maintenance, repair and improvement needs of all parks under its jurisdiction.

Section 140.070. Park Fund.

All funds derived from the operation or properties under the jurisdiction of the Parks and Recreation committee and such funds as may be derived by taxation specifically for park purposes shall be deposited in a fund to be known as the Park Fund which shall be kept by the City Treasurer separate and distinct from all other funds of the City.

Section 140.080. Record of Receipts and Expenditures — Reports To Mayor and City Council — Examination of Books and Records — Allowance and Payment of Accounts.

A. It shall be the duty of the Park committee to keep books of account showing with accuracy contemporaneous current entries of the receipts and expenditures of the committee in such manner as to enable such entries to be understood and investigated and also to preserve on file with its Secretary-Treasurer duplicate vouchers for all expenditures. Such books and duplicate vouchers shall at all times be opened to the examination of the City Council or any appropriate committee appointed by the Council.

B. The committee shall make reports of its business and transactions to the Mayor and City Council at regular intervals.

C. It shall be the duty of the Mayor and Finance to allow and order paid such accounts in the same manner as the bills and salaries of other officers and employees of the City are allowed and paid, provided that payment shall be made out of the Park Fund and the checks thereon shall be drawn only by the City Clerk.

Article II. Finance Committee

Section 140.090. Established — Purpose.

There is hereby created a committee of four (4) standing council members to be known as the Finance committee which shall have charge of the City finances. The members of the committee shall be appointed by the Mayor with the approval of the City Council, and they shall be chosen one (1) member from each ward. The Mayor shall have a seat on the finance committee, with full voting rights, and shall also act as liaison to the City Council.

Section 140.100. When Members Appointed.

Members of the Finance Committee shall be appointed each year during the month of May to take office on the next proceeding finance committee meeting date following their appointment.

Section 140.110. Meetings — Powers and Duties.

The Finance Committee shall meet no less than every other week opposite of the city's payroll dates. They shall be tasked with verifying employee payroll and vendor invoices and signing checks for the same. Finance may approve only those expenditures which exceed department supervisors discretionary limit up to a maximum of five thousand dollars ($5000.00). Funds in excess of this amount must be approved by a majority vote of City Council pursuant to the City Procurement Policy under Section 150.035.

Additional duties may include, but are not limited to:

A. Working with the staff to develop an annual operating budget.

B. Setting long term financial goals for the city, such as creating working capital or cash reserve funds, revenue targets, or creating a fund for maintaining or replacing equipment.

C. Ensuring adherence to the budget and achievement of the adopted goals by monitoring and reporting financial activity.

D. Suggesting financial policies, ensuring that they are recommended to Council, appropriately documented in policy, and confirming that they are being followed.

Article III. Planning and Zoning Committee

Section 140.120. Established — Purpose.

A provision for the appointment of a Planning and Zoning Committee is hereby established and shall consist of the Mayor, one (1) Councilperson, building inspector, and five (5) to fifteen (15) citizen members appointed by the Mayor and approved by the Council. All citizen members of the Committee shall serve without compensation. The term of each of the citizen members shall be for four (4) years.

Any vacancy in a membership shall be filled for the unexpired term by appointment as aforesaid. The Council may remove any citizen member for cause stated in writing and after public hearing.

Section 140.130. Annual Meeting — Officers — Regular and Special Meetings — Rules and Records.

As soon as practicable after the appointment of the new members each year, the Planning and Zoning Committee shall meet and elect a Chairman and Secretary from among the citizen members. The term of Chairman and Secretary shall be for one (1) year with eligibility for re-election. The Planning and Zoning Committee shall hold such regular and special meetings as they provide by rule and they shall adopt rules for the transaction of business and keep a record of their proceedings. These records shall be public records.

Section 140.140. MPO May Serve in Lieu of Standing Committee.

In the absence of a planning and zoning committee, the city may utilize the services of the municipal planning organization on a contracted basis.

Section 140.150. Meetings — Powers and Duties.

The Planning and Zoning committee shall meet on a regular basis once formed and appointed, the date to be determined by the members appointed. The Commission shall have and perform all of the

functions of a Zoning Commission provided by State law and shall have and perform all of the functions of a Planning Commission provided by State law.

Section 140.160. Preparation and Purpose of Zoning Plan.

The Planning and Zoning Committee shall prepare a zoning plan for the regulation of the height, area, bulk, location and use of private, non-profit and public structures and premises and of population density, provided that the adoption, enforcement and administration of the zoning plan shall conform to the provisions of Sections 89.010 to 89.250, RSMo., and Chapter 405 of this Code.

Section 140.170. City Plan — Duty of Committee To Prepare and Adopt — Contents.

The Planning and Zoning Committee shall make and adopt a City plan for the physical development of the City. The City plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, shall show the Committee's recommendations for the physical development and uses of land and may include, among other things, the general location, character and extent of streets and other public ways, grounds, places and spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned, the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment or change of use of any of the foregoing; the general character, extent and layout of the replanning of blighted districts and slum areas.

Section 140.180. City Plan — Manner of Preparation — Purposes.

In the preparation of the City plan, the Planning and Zoning Committee shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the City. The plan shall be made with the purpose of guiding and accomplishing a coordinated development of the City which will, in accordance with existing and future needs, best promote the general welfare as well as efficiency and economy in the process of development.

Section 140.190. City Plan — Procedure For Adoption of Whole or Part Thereof — Public Hearing — Vote Required — Certification — Filing.

A. The Planning and Zoning Committee may adopt the City plan as a whole by a single resolution or, as the work of making the whole City plan progresses, may from time to time adopt a part or parts thereof, any part to correspond generally with one (1) or more of the functional subdivisions of the subject matter of the plan.

B. Before the adoption, amendment or extension of the City plan or any portion thereof, the Zoning and Planning Committee shall hold at least one (1) public hearing thereon. Fifteen (15) days' notice of the time and place of such hearing shall be published in at least one (1) newspaper having general circulation within the City and the hearing may be adjourned from time to time. The adoption of the City plan requires a majority vote of the full membership of the Planning and Zoning Committee. The resolution shall refer expressly to the maps, descriptive matter and other matters intended by the Committee to form the whole or part of the plan and the action taken shall be recorded on the adopted plan or part thereof by the identifying signature of the Secretary of the Committee, identified properly by file number and a copy of the plan or part thereof shall be certified to the City Council and the City Clerk and a copy shall be recorded in the office of the Jasper County Recorder of Deeds.

Section 140.200. City Plan — Effect of Adoption of Whole or Part — Improvements, Etc., To Conform To — Procedure For Obtaining Approval of Proposed Improvements, Etc.

Whenever the Planning and Zoning Committee adopts the City plan or any part thereof, no street or other public facilities or no public utility, whether publicly or privately owned and the location, extent and character thereof having been included in the recommendations and proposals of the plan or portions thereof, shall be constructed or authorized in the City until the location, extent and character thereof has been submitted to and approved by the Planning and Zoning Committee. In case of disapproval, the Committee shall communicate its reasons to the City Council, and the City Council, by vote of not less than two-thirds (2/3) of its entire membership, may overrule the disapproval and, upon the overruling, the City Council or the appropriate committee or officer may proceed. The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land for, sale or lease of any street or other public facility is subject to similar submission and approval, and the failure to approve may be similarly overruled. The failure of the Planning and Zoning Committee to act within sixty (60) days after the date of official submission to it shall be deemed approval.

Section 140.210. Subdivision Regulations — Preparation and Adoption — Purposes and Contents.

The Planning and Zoning Committee shall prepare and recommend, and the City Council may by ordinance adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in addition to the requirements provided by law for the approval of plats, may provide requirements for the coordinated development of the City; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the City plan or official map of the City; for adequate open spaces for traffic, recreation, light and air; for a distribution of population and traffic; and for other matters mentioned in Section 89.410, RSMo.

Section 140.220. Subdivision Regulations — Public Hearing Required Prior To Adoption.

Before adoption of any subdivision regulations or any amendment thereof by the City Council, a duly advertised public hearing thereof shall be held by the City Council.

Section 140.230. Subdivision Regulations — Conditions Precedent To Recording Plats.

After the Planning and Zoning Committee has adopted a City plan which includes at least a major street plan, or the Committee progresses in its City planning to the making and adoption of a major street plan, and files a certified copy of the major street plan in the office of the Recorder of Deeds of Jasper County, then no plat of a subdivision of land lying within the City shall be filed or recorded until it has been submitted to and a report and recommendation thereon made by the Planning and Zoning Committee to the City Council, and the City Council has approved the plat as provided by law.

Section 140.240. Major Street Plan — Effect On Subdivision Regulations — Restrictions On Laying of Streets, Sewers, Water Mains, Etc.

Upon adoption of a major street plan and Subdivision Regulations, the City shall not accept, lay out, open, improve, grade, pave or light any street, or lay out or authorize the laying of water mains, sewers, connections or other utilities in any street within the City unless the street has received the legal status of a public street prior to the adoption of a City plan; or unless the street corresponds in its location and lines with a street shown on a subdivision plat approved by the City Council or the Planning and Zoning Committee, or on a street plan made by and adopted by the Planning and Zoning Committee. The City Council may locate and construct or may accept any other street if the ordinance

or other measure for the location and construction or for the acceptance is first submitted to the Committee for its approval, and approved by the Committee or, if disapproved by the Committee, is passed by the affirmative vote of not less than two-thirds (2/3) of the members elected to the City Council.

Section 140.250. City Plan — Restrictions Imposed On Buildings, Building Lines, Etc.

A. After the adoption of a major street plan, no building permit shall be issued for and no building shall be erected on any lot within the City unless the street giving access to the lot upon which the building is proposed to be placed conforms to the requirements of this Chapter.

B. Whenever a major street plan has been adopted, the City Council, upon recommendation of the Planning and Zoning Committee, is hereby authorized to establish, regulate, limit and amend, by ordinance, building or setback lines on major streets and to prohibit any new building from being located within the proposed site or right-of-way when the centerline of the proposed street or the limits of the proposed sites have been carefully determined and are accurately delineated on plans approved by the Planning and Zoning Committee and adopted by the City Council.

Section 140.260. Public Officials To Provide Information — Authority To Enter Upon Land — General Authority.

All public officials shall, upon request, furnish to the Planning and Zoning Committee within a reasonable time all available information it requires for its work. The Committee, its members and employees, in the performance of its functions, may enter upon any land to make examinations and surveys. In general, the Planning and Zoning Committee shall have the power necessary to enable it to perform its functions and promote municipal planning and zoning.

Section 140.270. Comprehensive City Plan.

The Comprehensive City Plan of the City of Carterville dated April, 2013 on file with the City Clerk, as amended, is the City Comprehensive Plan referenced herein.

Section 140.280. Historic Districts and Landmarks.

The Planning and Zoning Committee shall prepare and recommend and the City Council may by ordinance adopt regulations governing the designation of certain districts, buildings, lots, public land or any other landmark, property public or private that in the judgment of the Zoning and Planning Committee and City Council exhibits the necessary attributes to be designated a historic resource of the City of Carterville as provided by Chapter 89 and Section 253.415 of the Missouri Statutes.

Article IV. Plumbing Board, Electrical Board, and Board of Adjustment.

Section 140.290. Plumbing Board, Electrical Board and Board of Adjustment.

The Plumbing Board, Electrical Board and Board of Adjustment are created under different Chapters of this Code. The duties of the Plumbing Board and Electrical Board shall be performed by the Board of Adjustment created in Chapter 400 of this Code.

Article V. Police Department Personnel Committee

Section 140.300. Established — Composition – Bipartisan Character.

Pursuant to Section 85.541, RSMo., there is hereby established a Police Department Personnel Committee having a total membership of five (5) members.

Section 140.310. Appointment and Qualifications of Members.

The members of the committee shall be appointed by the Mayor with the approval of a two-thirds (2/3) vote of the members elected to the City Council. Members of the committee shall be at least twenty-one (21) years of age and qualified voters of the City.

Section 140.320. When Members Appointed – Term of Office – Annual Meeting – Officers.

Each member appointed to the committee shall be appointed for a four (4) year term. Annually, at the first (1st) regular meeting of the committee in January of each year, the committee shall select a Chairman from among its members by a majority vote.

Section 140.330. Removal of Members for Cause.

A member of the committee may be removed by the Mayor and a two-thirds (2/3) vote of the members elected to the City Council for good cause shown.

Section 140.340. Compensation of Members.

No member of the committee shall receive compensation for his/her services.

Section 140.350. Meetings – When, Where, and By Whom Called – Quorum.

The committee shall meet at the times and places specified by the Chairman or upon a call by the Mayor. Three (3) members in attendance shall constitute a quorum for the transaction of any business coming before the committee.

Section 140.360. Meetings – Duty of Chairman – Minutes – When References To Personalities May Be Deleted From Minutes.

It shall be the duty of the Chairman of the committee to attend all meetings of the committee and cause to be kept detailed minutes of the proceedings of the committee and to file a copy of the minutes with the City Clerk within seventy-two (72) hours of the conclusion of all called meetings, regular or special. The Chairman is hereby authorized to delete from the minutes any reference to personalities when there are references to any charges of misbehavior or conduct of an officer of the Police Department.

Section 140.370. Powers and Duties – Generally.

A. The committee shall be required to give examinations to candidates for appointment or promotion to the Police Department and to certify lists of eligibles to the Mayor or City Administrator.

B. The Mayor or City Administrator shall be required to appoint or promote from a list of eligibles so certified.

C. All persons so appointed or promoted shall be entitled to hold office during good behavior and efficient service.

D. Any person suspended, demoted or discharged for misbehavior or inefficiency shall, upon his/her application, be granted a public hearing before the committee.

Chapter 150. Finance and Taxation

Article I. Fiscal Matters in General

Section 150.010. General Revenue Fund.

The General Revenue Fund shall be composed of the proceeds of all fines, penalties and forfeitures accruing to the City and revenue from all other sources whatever, except the proceeds of special assessments for buildings or repairing sidewalks, streets or gutters, and from taxes levied and collected for the payment of any bonds or interest thereon and except for such special funds as may be established by law, this Code or other ordinance.

Section 150.020. Petty Cash Fund.

A. The City Clerk shall establish, out of the General Revenue Fund of the City, a separate fund in the amount of one hundred dollars ($100.00) to be designated the "petty cash fund" which shall be used for the payment of bills which should or must be paid before regularly allowed.

B. Any other provision of this Code to the contrary notwithstanding, the City Clerk is hereby authorized to draw on the petty cash fund on his/her signature alone, but he/she shall retain vouchers for each payment made therefrom and shall report to the City Council the sums so spent and for what.

Section 150.030. Purchases To Be Made Upon Requisition — Unencumbered Funds Must Be Available To Meet Requisitions.

Purchases of materials, supplies, equipment and services, other than personnel services, shall be made only on requisition, approved by the head of the agency making the purchase, in accord with such requirements as the Mayor may prescribe. Before any purchase is made, the requisition therefor shall be submitted to the City Clerk who shall certify on the face thereof that there is or is not an unencumbered balance in the particular appropriation account of the agency making the purchase during the period in which the purchase is made. If there is no balance or an insufficient balance exists in such account, the requisition shall not be executed, provided that the Mayor may authorize the head of the requisitioning agency to hold such requisition until such time as sufficient funds become available therefor.

Section 150.035. Purchases To Be in Accordance with Procurement Policy.

A. Purchasing procedure.

No purchase, purchases or contracts for services of any kind or description, payment for which is to be made from funds of the city, shall be made by any officer, employee or agent of the city, except in the manner hereafter set forth in this article.

B. Purchasing agent.

The city clerk shall act as the purchasing agent. The purchasing agent shall, in accordance with and subject to the rules, regulations and procedures of this article and all applicable laws and ordinances:

1. Direct, advise and be responsible for the procurement and acquisition of all materials, supplies and equipment and all contractual services required by any department or officer of the city. The purchasing agent shall not be responsible for contracts for the acquisition of real estate, or for professional services, except as provided for by this article.

2. The purchasing agent shall sell or dispose of all obsolete or unusable personal property of the city at the direction of the Mayor or City Administrator.

C. Purchasing rules.

1. Purchases of two thousand dollars ($2,000.00). Whenever any contemplated purchase or contract for goods or services is for the sum of two thousand dollars ($2000.00) or less, the department head authorized by the Mayor or City Administrator may order the item or items as needed without further formality.

2. Purchases of two thousand one dollars ($2,001.00) to five thousand dollars ($5,000.00) inclusive. Whenever any contemplated purchase or contract for goods or services is for the sum of two thousand one dollars ($2,001.00) and no more than five thousand dollars ($5,000.00), a minimum of three (3) oral or written quotations for the item or services shall be secured. The requester shall submit the purchase order and a copy of the bids to the Mayor or City Administrator and the finance committee for their approval before an order is placed with the vendor. If the requestor is unable to secure three (3) quotations a notation shall be attached to the purchase order explaining why three (3) quotations were not submitted.

3. Purchases in excess of five thousand dollars ($5,000.00). Whenever any contemplated purchase or contract for services is for the sum of more than five thousand dollars ($5,000.00). The requester shall prepare specifications based upon standards appropriate to meet the city's needs. The specifications shall be forwarded to the Mayor or City and City Council for comment and review prior to the preparation of the bid package. The city clerk shall cause to be published in one issue of a newspaper of general circulation in the city or its equivalent, a notice inviting bids. Said notice shall be published at least ten (10) days prior to the date set for the receipt of the bids. The notice herein required shall include a general description of the article to be purchased or the services to be performed. The time and place of the bid opening shall also be specified. The notice inviting bids shall be posted at City Hall, and notice inviting bids may also be mailed to all responsible prospective suppliers of the items to be purchased or the service to be performed, said notice shall be a copy of the notice inserted in the news-paper hereinbefore required. The requestor may purchase the items or services from the lowest responsible bidder after obtaining the approval of the city council.

4. Equal opportunity statement. All transactions, through purchase or bidding process shall be based upon merit without regard to race, color, sex, sexual orientation, religion, national origin, age, veteran status, or disability status. (the city does reserve the right, especially when requested by grant funding sources, to make every attempt to acquire goods produced or manufactured domestically).

5. Preference for local purchases. Whenever the City Purchaser otherwise determines bids are equal, preference shall be given to local purchases.

D. Bidding procedure.

The city and all parties contracting with the city shall follow the procedure hereinafter set forth in relation to all bids required under this article.

1. All notices and solicitation of bids shall state the date/time and place for opening.
2. All bids to the city shall be submitted sealed and shall be identified as a sealed bid on the envelope.
3. All bids shall be opened in public at the time and place stated in the public notice for the bids.
4. A tabulation of all bids received shall be posted in the City Hall for public inspection for five (5) days after the bid opening.
5. The city council shall have the authority to reject any and all bids or parts of all bids and readvertise or resolicit bids.

E. Determining lowest responsible bidder.

Unless there is an exercise of the right of rejection the purchase or contract shall be made from and with the lowest responsible bidder for any article or to the lowest responsible bidder for the entire purchase or contract for any part thereof. In determining the lowest responsible bidder, the following shall be considered.

1. The demonstrated ability, capacity and skill of the bidder to perform the requirements of the contract or to provide the services required.
2. The ability of the bidder to perform the contract requirements or provide the services promptly or within the specified time without delay or interference.
3. The quality of performance by the bidder on previous contracts or services.
4. The previous and existing compliance by the bidder with the laws and ordinances of the city.
5. The financial resources and the ability of the bidder to perform the contract or provide the service.
6. The quality, availability and adaptability of the supplies or service.

F. Approval of purchases.

All purchase orders or contracts shall be for goods and services covered by a category in the budget for the current fiscal year as approved by the city council. Any purchase for an item not provided for in the current fiscal year budget shall receive the prior approval of the city council. All purchases for goods and services costing in excess of two thousand dollars ($2,000.00) shall be approved in advance by the city council except as provided hereinafter.

G. Miscellaneous purchasing requirements.

1. Sole source. In the event that there is only one firm or company or individual capable of providing a particular service or commodity and said services or commodities cannot be

secured from other persons or companies then the bidding requirements contained above shall not be applicable and the requestor is authorized to proceed with the purchase of such service or commodity as required by the city. Sole source purchases for amounts exceeding two thousand dollars ($2,000.00) shall be pre-approved by the city council.

2. Contract bond. The city shall have the authority to require a contract bond, in cash or otherwise, in such amount as it may deem sufficient to secure the execution of the contract for goods or services for the best interests of the city.

3. Emergency purchases. In the case of an emergency which requires immediate purchase of supplies or services and time is of the essence the Mayor or City Administrator shall be empowered to authorize the purchase or to secure the services needed without complying with procedures set forth in this article. This section shall also apply to any natural disaster or civil emergency requiring an immediate response on the part of the city. A full report in writing of the circumstances requiring an emergency purchase shall be filed by the department head with the city council each time an emergency purchase is made.

4. Professional services. The competitive bidding requirements of this article shall not apply to professional services, and the requirements herein shall not be required in the employment of professional services, including but limited to attorneys, engineers, certified public accounts and planners. The requestor is encouraged to request proposals from capable professionals within the required discipline.

5. Cooperative purchasing. This article, and the requirements herein, shall not apply to purchases made through or with any other governmental jurisdiction which operates a cooperative procurement program and will allow the city to purchase goods or services that the jurisdiction has made available following the completion of its own internal purchasing procedure.

6. Subdividing prohibited. No contract or purchase shall be subdivided to avoid the requirements of this section.

H. Conflicts of interest.

1. Any purchase order or contract within the purview of this article in which any officer or employee of the city is financially interested, directly or indirectly, shall be void, except that the city council shall have the authority to waive compliance with this section when it finds such action to be in the best interest of the city.

2. All officers and employees of the city shall not directly or indirectly solicit any gifts or accept or receive any gift, under circumstances in which it could reasonably be inferred that the gift was intended to influence them, or could reasonably be expected in influence them, in the performance of their official duties or was intended as a reward for any official action on their part.

I. Inspections and testing.

1. *Inspections*. The requestor shall inspect or cause the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract therefore.

2. *Tests*. The requestor with the approval of the Mayor or City Administrator shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformity with the specifications. In the performance of the tests the requestor shall have the authority to make us of any outside laboratory.

J. Surplus materials.

1. Report. All department heads shall submit to the Mayor or City Administrator at such time the Mayor or City Administrator shall prescribe, a report in writing showing stocks of all supplies which are no longer needed or which have become obsolete, worn out or scrapped.

2. Transfers. The Mayor or City Administrator is hereby authorized to transfer surplus materials to other departments.

3. Sales. The Mayor or City Administrator in conjunction with the finance committee is hereby authorized to sell all supplies having an estimated value of less than five thousand dollars ($5,000.00) which have become unsuitable for public use, or to exchange the same for, or trade in the same, on new supplies. Sales under this subsection shall be made to the highest possible bidder."

Section 150.040. Disbursements To Be Made Only Upon Check.

No money of the City shall be expended except through properly drawn checks upon the City Treasury.

Section 150.050. Disbursements — Funds Drawn Upon.

A. All checks drawn for salaries, expenses or liabilities of the City shall be drawn upon and payable out of the General Revenue Fund, except as otherwise provided.

B. All checks drawn on account of salaries or expenses incident to Public Works department shall be drawn upon, and payable only out of, the funds belonging to those departments respectively.

Section 150.060. Disbursements — To Issue Only When Funds Available Therefor.

No check shall be drawn upon the City Treasury unless there be an unexpended balance, sufficient to pay such check, to the credit of the City in the fund upon which such check is drawn.

Section 150.070. Disbursements — City Clerk's Register.

The City Clerk shall keep an accurate register in his/her office of all checks issued, which shall represent the number of each one drawn, the name of the person to whose favor, the date, the amount, and for what purpose issued.

Section 150.080. Disbursements — Assignable.

All checks shall be assignable by endorsement thereon, signed by the payee and giving the name of the assigns and date of the assignment.

Section 150.090. Monthly Settlement By City Officers With City Treasurer.

All City Officers who shall in the discharge of their official duties receive any money belonging to the City shall, unless otherwise directed by law, this Code or other ordinance of the City, on the last

business day of each calendar month deliver to the City Clerk such sums of money as they may have on hand, taking duplicate receipts therefor, one (1) of which shall be filed with the City Clerk.

Section 150.100. Annual Audit — Required For City Funds.

A. The City, City boards, and other services of the City which handle funds shall have a single combined audit of each and every fund made annually by a certified public accountant. The audit shall cover the financial activities of the City for the preceding fiscal year.

B. The certified public accountant selected pursuant to Subsection (A) shall be duly registered and in good standing with the State board of Accountancy and shall maintain an office in the State. The services of such certified public accountant shall be contracted for in the same manner in which services of attorneys and other professional individuals are obtained.

Section 150.110. City Depository — When and How Selection May Be Made.

A. The City Council, shall have power to select a City depository in accordance with the provisions of Sections 95.280 and 95.285, RSMo., which depository shall be the depository of all City, City boards, City committees and City agency funds.

B. Within five (5) days after the selection of a City depository by the City Council, the banking institution so selected shall deposit the securities as required by Sections 110.010 and 110.020, RSMo.

C. Following the selection of a City depository and the deposit by it of the securities as required by law, the City Treasurer shall conform to the regulations contained in the provisions of Sections 95.295 and 95.300, RSMo., insofar as such provisions relate to the duties imposed upon him/her.

Section 150.120. Policy On Preferential Purchase of American Products.

A. On purchases in excess of one thousand dollars ($1,000.00), the City purchasing officers are encouraged to select products manufactured, assembled or produced in the United States if the quality and price are comparable with other goods.

B. Every contract for public works construction or maintenance in excess of three thousand dollars ($3,000.00) shall contain a provision requesting the contractor to use American products in the performance of the contract whenever the quality and price are comparable to other goods.

C. The City Council encourages the people of the City to purchase products manufactured, assembled or produced in the United States whenever the quality and price are comparable with other goods.

Section 150.130. Powers, Duties and Limitations As To Budget.

A. The City Council may revise, alter, increase or decrease the items contained in any proposed budget, subject to such limitations as may be provided by law, provided, that in no event shall the total authorized expenditures from any fund exceed the estimated revenues to be received plus any unencumbered balance or less any deficit estimated for the beginning of the budget year. Except as otherwise provided by law, the City Council shall, before the beginning of each fiscal year, approve the budget and approve or adopt such orders, motions, resolutions or ordinances as may be required to authorize the budgeted expenditures and produce the revenues estimated in the budget.

B. Any amendments or additions to the previously approved annual budget of the City shall be approved at the last regularly scheduled Council meeting prior to the City general election each year.

Section 150.140. Annual Tax Levy — Tax Book — Tax Duties of City Council and City Clerk.

A. Once the City Assessor's books of each year are returned and filed by the Assessor, the City Council shall, ascertain the amount of money to be raised therein for general and other purposes. They shall hold a public hearing and pass ordinance at special council in a timely manner as to allow the city clerk to certify such by September 1st.

Article II. City Sales Tax

Section 150.150. City Sales Tax Imposed.

Effective October 1, 1974, there is hereby imposed a City sales tax in the amount of one percent (1%) of the sales price for the benefit of the City on the receipts from the sale at retail of all tangible personal property or services at retail within the City which are subject to taxation by the State of Missouri under the provisions of Sections 94.500 to 94.550, RSMo.

Section 150.160. Transportation Tax Imposed.

Effective January 1,1983, there is hereby imposed a City transportation tax in the amount of one-half percent (.5%) of the sales price for the benefit of the City streets on the receipts for the sale at retail of all tangible personal property or services at retail within the City which are subject to taxation by the State of Missouri under the provisions of Sections 94.500 to 94.570, RSMo.

Section 150.170. Utilities and Retail Business Must Collect.

It shall be the duty of every person, firm or corporation engaged in the retail business of selling tangible property or taxable services, as defined by the laws of the State of Missouri, or retail sales which are subject to taxation under the provisions of Sections 144.010 to 144.525, RSMo., to add the taxes imposed in this Article to the sales price and, when added, the combined tax shall constitute a part of the price and shall be a debt of the purchaser to the retailer until paid and shall be recoverable at law in the same manner as the purchase price. The combined rate of the State sales tax and the City sales taxes shall be the sum of the two (2) rates multiplying the combined tax rate times the amount of the sale.

Section 150.180. Amount To Be Collected.

In collecting such tax and in order to avoid fractions of pennies, the brackets described in Appendix B, Tax Tables, on file in the City offices and made a part of this Code by reference herein shall be applicable to all taxable transactions and shall be used in lieu of those provided in Section 94.500, RSMo.

Section 150.190. State Law Applicable.

The City sales tax is imposed upon all sellers at retail for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in Sections 94.500 to 94.550, RSMo. The rules and regulations of the Missouri Director of Revenue issued pursuant thereto are hereby adopted and made a part hereof. Such tax, when collected, is to be paid to the Director of Revenue in the same manner as provided for in Sections 94.500 to 94.550, RSMo., the provisions of which are hereby adopted and made a part hereof.

Section 150.200. Revenue To Be Deposited in Appropriate Fund.

A. Such City sales taxes collected by the Director of Revenue, when remitted to the City, shall be paid to the City Collector and shall be deposited in the General Revenue Fund.

B. Such transportation sales taxes collected by the Director of Revenue, when remitted to the City, shall be paid to the City Collector and shall be deposited in the City Street Fund.

Section 150.210. City Sales Tax On Motor Vehicles.

The City sales tax imposed pursuant to this Article on the purchase and sale of motor vehicles shall not be collected and remitted by the seller but shall be collected by the Director of Revenue from the purchaser at the time application is made for a certificate of title pursuant to State law.

Section 150.220. Date For Property Tax Liability.

Every person owning or holding property in the City on the first (1st) day of January, including all such property purchased on that day, shall be liable for the taxes thereon for the same calendar year.

Section 150.230. Use Tax.

A. Pursuant to the authority granted by and subject to the provisions of Sections 144.600 through 144.761, RSMo., a use tax for general revenue purposes is imposed for the privilege of storing, using or consuming within the City any article of tangible personal property. This tax does not apply with respect to the storage, use or consumption of any article of tangible personal property purchased, produced or manufactured outside this State until the transportation of the article has finally come to rest within this City or until the article has become commingled with the general mass of property of this City.

B. The rate of the tax shall be six and twenty-two hundredths' percent (6.225%). If any City sales tax is repealed or the rate thereof is reduced or raised by voter approval, the City use tax rate shall also be deemed to be repealed, reduced or raised by the same action repealing, reducing or raising the City sales tax.

Section 150.240. Capital Improvements Sales Tax.

A. Effective October 1, 1988, there is hereby imposed a City capital improvements sales tax in the amount of one-half percent (.5%) of the sales price on all retail sales made within the City of Carterville which are subject to taxation under the provisions of Sections 144.010 to 144.525, RSMo., pursuant to Section 94.577, RSMo., for the purpose of funding capital improvements, including the operation and maintenance of capital improvements, and which may include the retirement of debt under previously authorized bonded indebtedness.

B. All revenues received by the City from the tax authorized under this Code Section shall be deposited in a special trust fund and shall be used solely for capital improvements, including the operation and maintenance of capital improvements, for so long as the tax shall remain in effect. Once the tax authorized by this provision is abolished or terminated by any means, all funds remaining in the special trust fund shall be used solely for the maintenance of the capital improvements made with revenues raised by the tax authorized by this Code Section. Any funds in the special trust fund which are not needed for current expenditures may be invested by the City Council in accordance with applicable laws relating to the investment of other municipal funds.

C. This capital improvement sales tax is imposed in addition to all other sales taxes imposed by the City.

Chapter 200. Police Department

Section 200.010. Chief of Police — Executive Head and Commanding Officer of Department

A. The Chief of Police shall be the executive head and commanding officer of the Police Department and shall be responsible for and have authority over all personnel of the department necessary to conserve the peace and preserve good order within the City and to maintain a high standard of administration, training, discipline, morale and operations in the Police Department.

B. The regular workweek of the Chief of Police shall be forty (40) hours per week and shall consist of such additional hours of duty as shall be deemed necessary.

C. In the event of a vacancy in the office of the Chief of Police by reason of death, removal, resignation or other cause, the office shall be filled in the same manner as prescribed in Section 115.150 of this Code.

Section 200.020. Responsibility For Personal Property of City.

The Chief of Police shall collect and preserve all personal property belonging to the City, whenever such property is not in lawful possession of some person employed in the service of the City.

Section 200.030. Responsibility For Evidence and Unclaimed Property.

A. The Chief of Police is hereby authorized to dispose of all unclaimed evidence and property in possession of the Police Department upon final disposition of the related case and approval from the municipal judge.

B. No property shall be destroyed unless it has been in the possession of the Police Department at least six (6) months and after all reasonable efforts have been made to discover and identify the owners of said property and to contact them.

Section 200.040. Assistant Chief of Police — Powers and Duties.

An Assistant Chief of Police may be employed by the City and, if so employed, shall assume the authority of the Chief of Police in the absence of the Chief of Police. In the event of the death, resignation or removal of the Chief of Police, the Assistant Chief of Police shall assume the duties and responsibilities of the Chief of Police until such time as a new Chief of Police shall be employed by the City. In the event the City has not employed an Assistant Chief of Police, the duties of the Assistant Chief of Police shall be performed by the highest-ranking officer junior to the Chief of Police.

Section 200.050. Responsibility of Department — Powers and Duties of Members Generally.

The Police Department shall be charged with the maintenance of law and order within the City and the personnel of the Police Department shall be conservators of the peace within the City and shall patrol on such beats and at such times as may be designated by the Chief of Police. They shall continuously be on the alert, vigilant and active in prevention of depredations, disturbances of the peace and violations of the law of the State, this Code and other ordinances of the City and in making of arrests in maintaining and preserving order and the peace of the City.

Section 200.060. Police Officers — Arrests and Service of Process.

Every member of the Police Department who shall be commissioned as a Police Officer shall have power at all times to make or order arrests with proper process for any offense against the laws of the City and to keep the offender in custody at a proper place to prevent his/her escape until a trial can be had before the proper officer, unless the offender shall give a good and sufficient bond for his/her appearance for trial, and shall also have power to make arrests without process in all cases in which any offense shall be committed in his/her presence. Every member of the Police Department is empowered to serve and execute all warrants, subpoenas, writs or other process issued by the Municipal Court of the City at any place within the limits of Jasper County, Missouri.

Section 200.070. Police Officers — Investigations and Reports.

Any Police Officer who is dispatched to the scene of an accident occurring on any public thoroughfare, or when making an arrest for any cause, shall make a complete investigation and file a written report as designated by the Police Chief. Such report shall state the time of arrest or incident or accident, location, names and addresses of injured parties, names and addresses of witnesses, diagrams of accident scenes and all other relevant facts which may come to his/her attention. No Police Officer shall make any investigation of any accident which may occur upon other than public thoroughfares of the City which may involve motor vehicles.

Section 200.080. Personnel — Composition of Department.

A. The Police Department may consist of the following personnel: one (1) Chief of Police, the Assistant Chief of Police, lieutenants, sergeants, corporals, patrolpersons, in accordance with the City's budget.

B. All Police personnel must have a high school diploma or equivalent and in addition the following requirements shall pertain to the various classifications:

1. *Chief of Police:* graduate of an accredited Police academy, P.O.S.T. certified, and at least five (5) years' experience in law enforcement work.

2. *Patrolperson:* P.O.S.T. certified, a graduate of accredited Police academy, and those certification/training requirements established by State law generally and specifically under Chapter 590, RSMo., regarding municipal Peace Officers.

Section 200.090. Personnel — Outside Work While Off-Duty Prohibited — Exceptions.

No member of the Police Department shall be permitted to engage in or receive compensation for any work, occupation or profession in addition to his/her duties as a member of the Police Department except as may be approved by the Chief of Police.

Section 200.100. Personnel — Wearing of Uniform — Personal Appearance.

A. Every member of the Police Department shall appear in the prescribed uniform when on duty with the following exceptions:

1. *Chief of Police, Assistant Chief of Police:* May wear either the prescribed uniform or appropriate civilian attire;

2. *Officers on special assignment:* At times when special investigations or assignments dictate, uniformed officers may wear civilian attire, with prior approval of the Chief of Police or Assistant Chief of Police.

B. All members of the Police Department when on duty shall be immaculate, clean and presentable to the public.

Section 200.110. Personnel — Absence From City.

While on duty or on call, no member of the Police Department shall absent himself/herself from the City without permission of the Chief of Police.

Section 200.120. Chain of Command.

In the discharge of his/her duties, the Chief of Police shall be subject to the supervision and direction of the City Administrator. The Assistant Chief of Police and all other members of the Police Department shall be subject to the supervision and direction of the Chief and their superior officers in the Police Department.

Section 200.130. Lieutenants, Sergeants and Corporals — Powers and Duties Generally.

A. Lieutenants shall have authority over sergeants, corporals, and police patrolpersons and shall be subject to such duties as shall be designated by the Chief and Assistant Chief of Police.

B. Sergeants shall have authority over corporals, and police patrolpersons.

C. Corporals shall have authority over police patrolpersons and shall be subject to such duties as shall be designated by their superior officers.

Section 200.140. Police Patrolpersons and Probationary Police Patrolpersons.

No person shall be appointed Police patrolperson until the officer has completed all required training and satisfactorily served a three (3) month period as a probationary Police patrolperson.

Section 200.150. Rules and Regulations For Government of Department and Conduct of Members.

The Chief of Police shall prepare and may from time to time amend rules and regulations not inconsistent with this Code or State law for the government of the Police Department and the conduct of the members thereof. Such rules and regulations and amendments thereto, when approved by the Mayor and adopted by resolution of the City Council, entered of record in the journal of the Council and placed on file in the office of the City Clerk, shall be binding on all members of the Police Department and it shall be unlawful for any member of the Police Department to violate or fail to comply with any such rule or regulation and shall subject such member to disciplinary action as set out in the Personnel Policy.

Section 200.160. Authority To Arrest and Hold in Custody — Fresh Pursuit Defined.

A. Any Carterville Police Officer in fresh pursuit of a person who is reasonably believed by him/her to have committed a felony in this State or who has committed or attempted to commit in the presence of such officer any criminal offense or violation of a City ordinance, or for whom such officer holds a warrant of arrest for a criminal offense, shall have the authority to arrest and hold in custody such person anywhere in this State, provided that such fresh pursuit may only be initiated

from within the City limits of Carterville and shall be terminated once the pursuing Police Officer is outside the City limits and has lost contact with the person being pursued.

B. The term *"fresh pursuit"*, as used in this Section, includes fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or the offense of driving while intoxicated or driving with excessive blood alcohol content or who is reasonably suspected of having committed a felony or the offense of driving while intoxicated or driving with excessive blood alcohol content. It shall also include the pursuit of a person suspected of having committed a supposed felony or the offense of driving while intoxicated or driving with excessive blood alcohol content, though no felony or the offense of driving while intoxicated or driving with excessive blood alcohol content has actually been committed, if there is reasonable ground for believing that a felony or the offense of driving while intoxicated or driving with excessive blood alcohol content has been committed. Fresh pursuit, as used therein, shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

Section 200.170. Emergency Situation Outside City Limits.

A. Any Police Officer of the City of Carterville who completed the basic Police training as established by Chapter 590, RSMo., shall have the authority to respond to an emergency situation outside the boundaries of the City.

B. No Police Officer shall be required by reason of this Section to leave the jurisdiction to respond to an emergency situation, but said Police Officer shall use his/her said discretion and judgment as to leaving the City to respond to any emergency situation. It shall be the policy of the City that said Police Officers shall not leave the City inhabitants with inadequate Police protection or be absent for extended periods of time, but that the response shall be in aid of and to assist the authorities of the County or the municipality in which the emergency situation is located.

C. The authority contained herein shall permit the response by one (1) or more City Police Officers in an area surrounding this municipality or with such agencies which hold a mutual aid agreement with the city. The Chief of the Police Department may in his/her discretion authorize additional response beyond this area.

D. Every response to an emergency situation outside of the City shall be reported to the Chief of Police, with an explanation for the reason for the response.

E. As used in this Section, *"emergency situation"* means any situation in which the Law Enforcement Officer has a reasonable belief that a crime or offense is about to be committed, is being committed, or has been committed involving injury or threat of injury to any person, property, or governmental interest and such officer's response is reasonably necessary to prevent or end such emergency situation or mitigate the likelihood of injury involved in such emergency situation. The determination of the existence of any emergency situation shall be in the discretion of the officer making the response or in the discretion of an officer or governmental officer of the City in which the emergency situation is alleged to be occurring.

Chapter 205. Fire Prevention and Protection

Article I. Fire Department

Section 205.010. General Provisions

Fire protection and basic first responder services are provided to the residents of the city by the Carterville Volunteer Fire District (station 51). These services are paid for by local resident's fire district taxes and are not under the supervision of the city.

Section 205.020. Personnel, Rules, and Regulations

The Fire Chief in conjunction with the Fire Board will adopt and amend, as needed, rules and regulations to operate the fire department and its volunteers to effectively perform the duties of their department. Volunteer qualifications, job descriptions, training requirements, and staff size will be determined by their policy.

Section 205.030. Duty of Persons on Scene

It shall be unlawful for any person at or near the scene of any fire or medical emergency to conduct himself/herself in a disorderly manner or neglect or refuse to obey any proper order of the Fire Chief or his/her assistants or to resist, obstruct, hinder or abuse any member of the Fire Department in the proper discharge of his/her duties.

Section 205.040. Exemptions to City Code

Fire Department personnel may, when serving in official capacity, be exempt from certain sections of the city code as allowed by state law.

Section 205.050. Crossing Fire Hose.

No vehicle shall be driven over any unprotected hose of a Fire Department when laid down on any street or private driveway to be used at any fire or alarm of fire without the consent of the Fire Department official in command.

Article II. Fireworks

Section 205.060. Application For Permit To Sell Fireworks

A. All applications for permits for the sale of fireworks shall be submitted to the City Council and included therewith shall be specifications of the fireworks stand from which sales are to be made and its location.

B. All applicants for permits to sell fireworks shall indicate on their respective applications that they shall adhere to the laws of the State regulating the sale of fireworks and that they shall indemnify and hold the City not liable in any way for action or damages resulting from the operation of their respective fireworks stands for the sale of fireworks.

C. Before any permit to sell fireworks is issued by the City Collector, the location, as well as all requirements set forth by State law and the City's Fire Code must be satisfied.

D. Any location used to store, display, or sell fireworks within the City of Carterville will keep on location no less than two (2) UL approved fire extinguishers. In addition, all locations will display signs

prominently visible to the public which states no smoking or open flame around structure. Also, a sign indicating no discharging of fireworks within 100 feet of the structure or an equivalent statement.

E. The license fee for a permit to sell fireworks within the City of Carterville, Missouri, shall be the sum of twenty-five dollars ($25.00) per location.

Section 205.070. Notification To Vendor Applicants of Approval or Disapproval.

The City Collector shall notify the applicants for permits to sell fireworks of the approval or disapproval of their application as early as possible following the June council meeting of each year and failure to make application for a permit by the June council meeting date may result in the City's refusal to issue a license to the licensee or applicant for such calendar year.

Section 205.080. Sale of Fireworks — Dates.

Permissible items of consumer fireworks defined in Section 320.131, RSMo., may be sold at retail by holders of a seasonal retail permit during the selling periods of 9:00 A.M. through 11:00 P.M. the twentieth (20th) day of June through Midnight of July fifth (5th).

Section 205.090. Dismantling of Stands, Etc., After Independence Day.

All fireworks stands shall be dismantled and all trash, rubbish and other debris removed by July seventh (7th).

Section 205.100. Dates and Hours For Use.

The permitted discharge of fireworks within the City shall be limited to the hours between 9:00 A.M. and 11:00 P.M. from June thirtieth (30th) through July fifth (5th) and between the hours of 5:00 P.M. and 1:00 A.M. from December thirty-first (31st) through January first (1st).

Section 205.110. Proper Use and Location.

A. All fireworks discharged within the City of Carterville must be used within the intended manufacturers' design. Homemade explosives or modified retail fireworks will not be permitted.

B. No person shall discharge any fireworks in such a manner as to threaten or to injure another person or property.

C. No fireworks may be fired or discharged except on one's own property or on the property of another with the permission of the property owner or discharged in a manner which will allow debris to fall onto property of another.

D. No fireworks shall be discharged on city property, at any time with the exception of public displays organized by the city.

Article III. Burning

Section 205.130. Burning in General

A. No person shall light, kindle or maintain any residential yard debris fire, recreational bonfire, or authorize any open burning, without approval from the fire chief or his designee.

B. All burning will be done during daylight hours only.

C. All fires shall be supervised at all times.

D. A water source such as a hose or other extinguishing devises shall be readily available at all times.

For the purpose of this Section, "yard debris" shall be defined as, but not limited to, the following:

1. Grass clippings
2. Leaves
3. Tree Branches, Trimmings, and/or Parts Less Than Six (6) Inches in Diameter.

Such permitted fires shall be limited to piles in size as follows:

a. On any residential lot less than three fourths (¾) acre in size, the size of any pile shall be less than three (3) feet in diameter by two (2) feet high.

b. On any lot of three fourths (¾) acre or more in size but less than five (5) acres, the size of any piles shall be less than twelve (12) feet in diameter by six (6) feet high and must have clearance of at least two hundred (200) feet from any structure.

Section 205.140. Burning Relating to Land Clearing

Burning relating to land clearing may be allowed at the discretion of the Fire Chief or his designee only upon the following conditions:

A. Any person wishing to conduct a burn related to land clearing must submit a detailed plan for the burn site with 24-hour contact information for the supervisor of the burn site.

B. Burning may only take place during daylight hours and must be extinguished prior to sunset in such fashion as to keep from reigniting overnight.

C. Such a person must ensure that the burn is supervised by at least one person continuously when the burn is active.

D. Such person must ensure that a method of completely extinguishing the burn is present on-site at all times the burn is active.

E. Proper clearance must be observed. For purposes of this article proper clearance shall be those in accordance with Missouri Department of Natural Resources 10 CSR 10-6.045 which requires:

a. at least two hundred (200) yards from any inhabitable structure.

b. At least fifty (50) yards from any inhabitable structure when using air curtain destructors.

Section 205.150. Prohibited Burning.

Burning will not be permitted under any circumstances during a county-wide burn ban or when the Carterville Fire Department determines that environmental conditions such as a lack of rainfall or excessive winds may pose a danger to the community

Section 205.160. Burning Which Constitutes a Nuisance to Public Health

A. No person, firm or corporation, within the City of Carterville, Missouri, shall burn any trash, refuse, or garbage in the open such that the smoke and fumes therefrom shall be emitted, unless in compliance with this Chapter.
B. It shall be unlawful for any person to burn yard debris on public, streets, alleys and sidewalks, and upon any other public property of the City.
C. Burning of materials or rubbish for disposal during construction, demolition of buildings or structures is strictly prohibited.
D. It shall be unlawful for any person to burn any material which causes smoke to effect neighboring properties or which results in ash or debris to affect the property of others.

Section 205.170. Exemptions.

A. Non-commercial preparation of food.
B. Small ceremonial or recreational fires.
C. Fires set by the Fire Department for the purpose of training so long as all linoleum, asbestos, shingles and other petroleum products are removed from the building.
D. Burns at enclosed locations, with environmental emission.

Section 205.180. Penalty

A. The Police officer on duty or designated official shall go to the site of any open burning which violates this section, inform the property owner or designee, if the property owner or designee is present, that the fire is in violation of City Code and request that the property owner or designee immediately put out the fire, and if present, remove the debris from the public right-of-way, street, alley, sidewalk or public property and into the property owner's yard.
B. Any violation of this section may result in a citation issued by the police department, the Fire Department being called out to extinguish the fire, and the Street Department to remove the fire debris from any public right-of-way or street site. The property owner shall be liable for cleanup and repair of the fire site.
C. Property owners may also be responsible for additional costs incurred such as fire department costs or city water used to extinguish the fire

Chapter 210. Animal Regulations

Article I. Animal Control Officer

Section 210.010. Animal Control Officer — Powers and Duties Generally.

The Animal Control Officer is an at-will employee of the City and he/she shall exercise the powers and perform the duties prescribed for his/her office in this Chapter and elsewhere in this Code and shall exercise such other powers and perform such other duties as may from time to time be required of him/her by the Mayor or City Council. The Animal Control Officer will be responsible for promoting harmonious relationships in the interaction between man and animal by:

1. Protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards.

2. Delineating the animal owner's or harborer's responsibility for the acts and behavior of his/her animal at all times.

3. Providing security to residents from annoyance, intimidation, injury and health hazards by animals.

The Animal Control Officer shall be under the direct control and supervision of the Police Department and such duties shall be shared by any sworn officer when there exists a vacancy in this position. The Animal Control Officer is authorized to enter private property to assist any animal or fowl that is visibly in distress or endangered. No person shall hinder, molest or interfere with the Officer in the performance of his/her duties.

Article II. Domesticated Animals

Section 210.020. Definitions.

ABANDON: To cease to provide control over and shelter, food and water for an animal without having provided that care, custody and physical control of such animal has been transferred to another person.

ADEQUATE CARE: Normal and prudent attention to the needs of an animal, including wholesome food, clean, unfrozen water, shelter, shade and health care as necessary to maintain good health in a specific species of animal.

ADEQUATE CONTROL: To reasonably restrain an animal so that the animal does not injure itself, any person, any other animal or property and cannot wander off of property owned or leased by owner.

ANIMAL: Every living creature except human beings, domestic or wild.

ANIMAL CONTROL OFFICER: An agent designed by the City of Carterville to enforce this Ordinance.

ANIMAL NUISANCE: Any nuisance arising out of the keeping, maintaining or owning of, or failure to exercise sufficient control of, an animal. Animal nuisance shall include, but not be limited to, the following:

1. Runs uncontrolled.
2. Molests or disturbs persons or vehicles by chasing, barking or biting.
3. Attacks other animals.
4. Damages property other than that of the owner or harborer.
5. Barks, whines, howls, brays, cries or makes other noise excessively so as to cause unreasonable annoyance, disturbance or discomfort to an individual who is a neighbor and who does in writing state he will so testify if called upon to testify about such manner under oath.
6. Creates noxious or offensive odors.
7. Defecates upon public place or upon premise not owned or controlled by the owner or harborer unless promptly removed by the animal owner or harborer.
8. Threatens or causes a condition, which endangers public health.
9. Impedes refuse collection by ripping any bag or tipping any container of such.

ANIMAL SHELTER: Any facility operated by the City, Veterinarian or humane society for the temporary care, confinement and detention of animals and for the humane killing and other disposition of

animals. The term shall also include any private facility authorized by the City to impound, confine, detain, care for or destroy any animal.

AT LARGE: Any animal, aggressive or otherwise, found to be off of the owner's property with the exception of being under direct control of the owner by way of leash or other control devises.

CRUELTY: Every act, omission or neglect whereby unjustifiable physical pain, suffering, torment, trauma, distress, injury or death results to an animal.

DANGEROUS ANIMAL: Any animal that attacks, bites or physically injures human beings, domestic animals or livestock without adequate provocation or which, because of temperament or training, has a known propensity to attack, bite, confront, chase, menace or physically injure human beings, domestic animals or livestock without provocation. Any wild animal or any animal that without provocation has bitten or attacked a human being or other animal shall be prima facie presumed vicious or dangerous. Any wild animal that is of such natural disposition or character as to constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters. Any animal that has acted in a manner that causes or should cause its owner to know that it is potentially dangerous. The term *"dangerous animal"* shall also include vicious or dangerous dogs as defined under this Section but excludes any large carnivores as defined below and by Section 576.600.6, RSMo.

ENCLOSURE: An escape-proof structure of at least four (4) feet in height, forming or causing an enclosure suitable to prevent entry of young children and suitable to confine a dangerous or vicious dog in conjunction with other measures which may be taken by the owner or harborer. Such enclosure shall have secured sides and secured top, a concrete floor, shall be securely enclosed and locked and designed to prevent the animal from escaping from the enclosure. If such enclosure has no floor secured to the sides, the sides must be embedded into the ground no less than two (2) feet deep.

EXOTIC ANIMAL: Any live monkey, alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snake, member of the feline species other than domestic cat (felis domesticus), member of the canine species other than domestic dog (canis familiaris) or any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or domestic farm animals. The term *"exotic animal"* excludes any large carnivores as defined below and by Section 576.600.6, RSMo.

GUARD OR ATTACK DOG: A dog trained to attack on command or to protect persons or property and who will cease to attack upon command.

HARBOR: To knowingly feed or shelter a wild animal or Feline not owned by you for three (3) consecutive days.

IMPOUNDMENT: The taking into custody of an animal by any Police Officer, Animal Control Officer or any authorized representative thereof.

KENNEL: Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs, cats or other animals.

LARGE CARNIVORE: A large carnivore is defined as either of the following:

1. Any of the following large cats of the Felidae family that are non-native to this State held in captivity tiger, lion, jaguar, leopard, snow leopard, clouded leopard, and cheetah, including a

hybrid cross with such cat, but excluding any unlisted non-native cat, or any common domestic or house cat.

2. A bear of a species that is non-native to this State and held in captivity.

LIVESTOCK: Horses, sheep, cattle and other bovine, goats, venison, swine, fowl or poultry (including, but not limited to, ducks, pheasant, quail, geese, pigeons, turkeys or chickens) and other animals normally kept in an agricultural setting.

MUZZLE: A device constructed of strong, soft material or of metal designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

NEIGHBOR: Within this Ordinance shall be defined as an individual residing in a residence structure which is within one hundred (100) yards of the property on which the animal is kept or harbored.

OWNER: Any person owning, keeping or harboring an animal or who shall allow any animal to habitually remain or to be lodged or fed within the house, store, yard, enclosure or any place owned or leased by said person.

PUBLIC NUISANCE ANIMAL: Any animal that unreasonably annoys humans, endangers the life or health of persons or other animals or substantially interferes with the rights of citizens, other than their owners, to an enjoyment of life or property. The term *"public nuisance animal"* shall include, but not be limited to:

1. Any animal that is found running at large.
2. Any dog or cat in any section of a park or public recreation area unless the dog or cat is controlled by a leash or similar physical restraint.
3. Any animal that damages, soils, defiles or defecates on any property other than that of its owner.
4. Any animal that makes disturbing noises including, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
5. Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
6. Any animal, whether or not on the property of its owner, that without provocation molests, attacks or otherwise interferes with the freedom of movement of persons in a public right-of-way.
7. Any animal that chases motor vehicles in a public right-of-way.
8. Any animal that attacks other domestic animals, however this should be visited on a case-by-case basis considering the other animal's behavior and the location of the incident.
9. Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.

10. Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

RESTRAINT: Shall be by fence, leash or other physical means that effectively restrains the animal from leaving the premises of the owners.

SANITARY: A condition of good order and cleanliness to minimize the possibility of disease transmission.

STERILIZED: An animal certified by a licensed veterinarian to have been sterilized for the purpose of not reproducing.

UNDER RESTRAINT: An animal is secured by a leash, led under the control of a person physically capable of restraining the animal and obedient to that person's commands or securely enclosed within the real property limits of the owner's premises.

VETERINARIAN: A person licensed by the Board of Veterinary Medicine to practice veterinary medicine.

VICIOUS OR DANGEROUS DOG: Any dog that presents a risk of serious physical harm or death to human beings, other domestic animals or property if not kept under the direct control of the owner. This definition shall not apply to dogs utilized by Law Enforcement Officers in the performance of their duties. The term *"vicious"* or *"dangerous dog"* includes any dog that according to the records of the City of Carterville or any law enforcement agency.

1. Has aggressively bitten, attacked, endangered or inflicted severe injury on a human being on public or private property or, when unprovoked, has chased or approached a person upon the street, sidewalks or any public or private grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one (1) or more persons and dutifully investigated by any of the above-referenced authorities.

2. Has more than once severely injured or killed a domestic animal while off the owner's property; or has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting.

WILD ANIMAL: Any animal, fowl or reptile not normally considered being domestic. The term "exotic animal" excludes any large carnivores as defined above and by Section 576.600.6, RSMo.

Section 210.030. Annual License — Fees — Penalty For Delinquency.

A. Vaccination and license will be required to any resident wishing to own animals within the city limits and shall be subject to the following:

1. No person shall own, keep, harbor or have custody of any Cat or Dog over six (6) months of age within this municipality unless same has been currently vaccinated for rabies by a licensed veterinarian and has been properly licensed by the City. A license tag must be secured on the collar or harness of each Cat or Dog. The license period shall be for twelve (12) months from the time of registration. There shall be a thirty (30)-day grace period from the time of expiration, with a late fee assessed thereafter.

2. *Exemptions to licensing.* Persons must provide proof that the animal was under six (6) months old during its time within the city or proof that the animal was newly acquired upon time of contact with animal control. (within ten (10) days).

B. Application for license shall be made to City and shall state the name, address and telephone number of the owner and the name, breed, color, sex, age, reproductive capabilities and distinguishing marks of the animal. License fee shall be paid and proof of a current vaccination for rabies by a licensed veterinarian shall be submitted at the time of making the application. The fees shall be as follows:

All license fees are annual and are due July first.

Sterilized Animals	$ 7.00
Unsterilized Animals	$10.00
Late fee (after 7/1)	$ 5.00
Lost tag or transfer tag fee	$ 3.00
License for keeping chickens	$20.00

C. Upon acceptance of fee, the City shall issue a durable tag stamped with an identifying number. A license certificate shall be issued and a copy kept for records. The certificate shall contain the number of the license, date of issuance, name, address and telephone numbers of the owner, a description of the licensed Cat or Dog and the date of the last rabies vaccination and the name of the veterinarian providing it.

D. If the tag is lost or ownership of animal is transferred contact with the city should be made promptly and a replacement tag may be purchased.

E. The City shall maintain a record of the identifying numbers of all tags and licenses issued for a period to comply with State record retention laws. The record shall be made available to the public.

F. No person shall make, sell, purchase, possess, place or allow to be placed on any Dog or Cat any metallic tag of the same form, shape or appearance as the official metallic license tag.

Section 210.040. Kennels.

Any person who shall own, keep or harbor on his premises more than three (3) dogs or cats other than under the age of six (6) months shall be deemed the owner of a kennel. All licenses to operate a kennel within the city shall be approved by the city council in advance.

Section 210.050. Running At Large Prohibited — Dogs and Cats.

It shall be unlawful for the owner or keeper of any dog or cat to permit the same to run at large within the City of Carterville at any time. Any dog or cat found without the tag provided for in Section 210.030, and any dog or cat found running at large, shall be impounded.

Section 210.060. Permitting Animals to Become a Nuisance.

It shall be unlawful for any owner, keeper, harborer or maintainer of any animal to allow or permit any such animal to:

1. Bark, whine or howl in an excessive fashion, which is hereby defined as continuous and untimely, so as to disturb the peace of an individual neighbor (a *"neighbor"*, for this purpose, is hereby defined as an individual residing in a residential structure that is within one hundred

(100) yards of the property border on which the animal is kept or harbored) who states in writing that he will testify if called upon to testify about such matter under oath; or

2. Impedes refuse collection by ripping any bags or tipping any containers of such or interferes with the collector thereof; or

3. Damages public or private property; or

4. Commits an animal nuisance as defined elsewhere in this Ordinance.

5. Allowing any other animal to create noise which may become an annoyance to another.

6. Allowing any animal to leave the owners property without proper control by the owner.

Section 210.070. Vicious Animals.

A. It shall be unlawful to keep, harbor, own or in any way possess a vicious animal within the City.

B. Any animal deemed to be vicious by definition, act or by the Animal Control Officers or by another City, shall be taken up for confinement and a vicious animal citation shall be issued to the owner requiring a mandatory court appearance. If at such time the animal is determined to be a vicious animal, the Judge shall determine whether the animal is to be moved outside the City limits or humanely euthanized. All fees associated with the confinement of a vicious animal shall be paid for by the owner or harboring party.

C. No person shall sell, barter or in any other way transfer possession of a vicious animal to any person within the City.

D. Any person violating or permitting the violation of any provision of this Section shall be subject to court action. Further, for the third (3rd) offense, the court may order the animal euthanized. Should the defendant refuse to surrender the animal to the City, the Municipal Judge shall find the defendant in contempt of court. Each day that a violation of this Section continues may be deemed a separate offense. In addition to the foregoing penalties, any person who violates this Section shall pay all expenses for impoundment or euthanasia of the animal, property damage caused by the animal or for any loss suffered by any person injured by the animal.

E. If any Section, sentence, clause or phrase of this Section is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Section.

Section 210.080. Pens For Keeping Dogs and Cats.

A. No person shall keep or maintain or permit the keeping or maintenance of any outside pen for dogs or cats unless such enclosure has an area equal to thirty-two (32) square feet.

B. No doghouse, pen or kennel shall be maintained closer than twenty-five (25) feet to any apartment house, residential condominium, hotel, restaurant, boarding house, retail food store, building used for school, religious or hospital purposes. Single dwelling residences are exempt.

C. All pens, yards or runs or other structures wherein any animal is kept shall be of such construction so as to be easily cleaned and kept in good repair.

D. Every pen, run, cage or other yard establishment wherein a dog is kept shall be maintained in a sanitary condition so that no offensive, disagreeable or noxious smell or odor shall arise therefrom to the injury, annoyance or inconvenience of any neighbor.

Section 210.090. Animal Droppings.

No owner or other person in control of a pet animal or livestock shall allow such pet animal or livestock to defecate upon public property, parks, streets or rights-of-ways, or upon property of any other person without his/her permission, unless the owner or person in control of such pet animal or livestock shall take adequate measures to remove such droppings.

Section 210.100. Pit Bull Dogs Prohibited.

A. *Prohibited—Definitions.* It shall be unlawful to keep, harbor, own or in any way possess within the City limits of the City of Carterville any pit bull dog. Any animal within this classification which is officially registered as a service animal shall be exempt, however proof of registration must be submitted to the city. For the purposes of this Section, a pit bull dog is defined to mean:

1. The Bull Terrier breed of dog;
2. Staffordshire Bull Terrier breed of dog;
3. The American Pit Bull Terrier breed of dog;
4. The American Staffordshire Terrier breed of dog;
5. The American Bully breed of dog;
6. The American Bull Dog breed of dog;
7. The Dogo Argentino breed;
8. The Cane Corso breed;
9. Pynat and Stuffawler breed;
10. Chamuco aka Mexican breed;
11. Razors Edge breed;
12. Stuffawler breed of dog;
13. Monster Blue breed of dog;
14. Colby Pit Bull breed of dog;
15. Red Nose breed of dog;
16. Cobra breed of dog;
17. Villaliberty breed of dog;
18. Gamers breed of dog;
19. Johnsons breed of dog;

20. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers;

21. Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

B. *Exceptions.* The prohibition shall not be applicable to pit bull dogs currently registered within the City of Carterville or to those dogs which become registered in the City within fifteen (15) days of the effective date of this Section. The keeping of such dogs currently registered and those which become registered within fifteen (15) days of the effective date of this Section, however, shall be subject to the following regulations:

1. *Leash and muzzle required.* No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a pit bull dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person is in physical control of said leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

2. *Secure confinement.* All such dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel, or structure must have secure sides and a secure top attached to the sides.

3. *Keeping on porch, patio, etc., prohibited.* No pit bull dogs shall be kept on any porch, patio, or in any part of the house or structure that would allow a dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure where the windows are open or where screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

4. *Photograph required.* All owners or keepers of pit bull dogs registered with the City must, within ten (10) days of the effective date of this Section, provide to the Police Department two (2) color photographs of the registered animal clearly showing the color and approximate size of the animal.

5. *Incidents to be reported.* All owners or keepers of such dogs must, within ten (10) days of the incidents listed below, report the following to the Police Department:

a. The removal from the City or death of the animal;

b. The birth of offspring of the animal;

c. Any change in address of the owner or keeper.

6. *Offspring removed.* All offspring born of pit bull dogs within the City must be removed from the City within eight (8) weeks of the birth of such animal. Any breeding of regulated breeds is strictly prohibited.

7. *Sale, barter or transfer prohibited.* No person shall sell, barter or in any other way transfer possession of a pit bull dog within the City to any person within the City.

C. *Insurance*. Any owner of one or more of the preceding breeds of Pit Bull dog shall have and maintain a liability insurance policy of not less than One Hundred Thousand Dollars ($100,000). Failure to ensure animal is grounds for removal of the animal from the City of Carterville.

D. *Violations, Penalty.* Any person violating the provisions of this Section shall upon conviction be fined a sum of not more than five hundred dollars ($500.00). In addition, the court shall order the registration of the subject pit bull dog revoked and the dog removed from the City.

E. *Immediate impoundment authorized*. Animal control reserves the right to immediately impound any prohibited dog for failure to abide by the requirements of this Ordinance if the failure to abide creates an imminent or immediate danger to public safety. Upon such seizure, the Officer shall immediately begin proceedings in Municipal Court to determine whether such dog shall continue to be confined or shall be returned to its owner and under what conditions.

Section 210.105. Impoundment, Redemption, Disposal, and Applicable Fees.

A. An Animal Control Officer or a Police Officer may seize, impound or humanely confine any of the following animals in an approved facility for housing designated for impoundment for a period not exceeding ten (10) days:

1. Any animal without a valid license tag.
2. Any animal at large.
3. Any animal constituting a public nuisance or considered a danger to the public.
4. Any animal that is in violation of any quarantine or confinement order from the City of Carterville, Jasper County Missouri or the state of Missouri.
5. Any unattended animal that is ill, injured or otherwise in need of care.
6. Any animal that is reasonably believed to have been abused or neglected.
7. Any animal that is reasonably suspected of having rabies.
8. Any animal that is charged with being potentially dangerous or dangerous for an Officer or if the City Administrator determines that there is a threat to public health and safety.
9. Any animal that a court of competent jurisdiction is ordered impounded or destroyed.
10. Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been under arrest or evicted from his regular place of residence.

B. If the animal's owner can be identified and located by any reasonable means, the owner shall be notified within twenty-four (24) hours that the animal has been impounded. Said owner may reclaim his animal under the following conditions:

1. Prior to pickup of an impounded animal, the owner shall present a copy of citation issued by Police or Animal Control officer and pay a first (1st) offense fine of fifty dollars ($50.00) plus no less than twenty dollars ($20.00) per day boarding fee or documented fee incurred by the city of Carterville.

A second (2nd) offense in a twelve (12) month period will incur a fine of no less than seventy-five dollars ($75.00) plus applicable boarding fees. A third (3rd) and subsequent offense in a twelve

(12) month period will result in a mandatory court appearance and incur a fine of no less than one hundred dollars ($100.00) and no more than five hundred dollars ($500.00) plus applicable boarding fees. If an afterhours call for animal control was made for the animal, a fifty-dollar ($50.00) call-out charge will also apply. Owners will also incur a fee of no less than twenty-five dollars ($25) for usage of any less than lethal restraints or deterrents used to safely restrain said animal.

2. The owner must show proof of a current rabies vaccination by a licensed veterinarian or have the animal vaccinated for rabies before leaving the impounded veterinary office or bring proof of prepaid rabies vaccination by a licensed veterinarian for the impounded dog. If prepaid, the vaccination must be given within two (2) working days of the release of the animal impoundment.

3. All residents of the City must have a City animal license or purchase one before the animal is released.

4. There is no reason to believe that this animal was or will be abused by the owner.

C. If the animal is not redeemed by the owner after an appropriate holding period, the animal may be disposed of in one (1) of the following ways:

1. Euthanasia, using a method approved by the American Veterinarian Medical Association.

2. Released for adoption to a humane organization or a person who shows evidence of ability and intention to provide the animal with an appropriate home and humane care.

D. Any owner or harborer whose animal is impounded and not claimed will be responsible for a handling fee of no less than fifty-five Dollars ($55.00), a disposal fee of no less than forty dollars ($40.00) and any other documented fees associated with such animal, including, but not limited to, an after-hours call-out fee for animal control and medical fees incurred by such animal.

Section 210.110. Chaining, Tethering, and Picketing of Dogs.

A. It shall be unlawful for any person to attach chains, tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the dog.

B. For the purpose of tethering a dog, a chain, leash, rope or tether shall be at least ten (10) feet in length.

C. Any dog chained, tethered or picketed on private property shall be restricted from movement closer than five (5) feet to the property line of the premises or any public sidewalk or right-of-way.

D. No person shall:

1. Continuously tether a dog for more than one (4) continuous hours, except that dog having access to fresh water food and adequate shade and shelter.

2. Tether a dog on a choke chain or any other choke collar or in such a manner as to cause injury, strangulation or entanglement of the dog on trees, fences or other natural or manmade obstacles.

3. Tether a dog without securing its water supply so that it cannot be tipped over.

4. Tether a dog without access to shade when sunlight is likely to cause overheating or access to appropriate shelter to provide insulation and protection against cold or dampness when the temperature falls below forty degrees Fahrenheit (40°F).

5. Tether an animal in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation unless access to dry area or shelter is provided.

E. All pens, yards or runs or other structures wherein any animal is kept shall be of such construction to be easily cleaned and kept in good repair. Every pen, run, cage or other yard establishment wherein a dog is kept shall be maintained in a sanitary condition so that no offensive, disagreeable or noxious smell or odor shall arise therefrom to the injury, annoyance or inconvenience of any neighbor.

Section 210.115. Complaints of Vicious and Dangerous Animals – Processing of Complaints

A. Any person may make a verbal or written complaint to the Police department or Animal Control Officer of an animal which the complainant believes to be dangerous. The complaint shall include sufficient information to enable the Officer to ascertain the location and owner of the animal and shall also include the reasons why the complainant believes the animal to be vicious or dangerous. A copy of the complaint shall then be mailed or hand delivered by the Officer to the owner of the animal at the owner's last known address.

B. Within ten (10) days of the making of the complaint, the Officer shall undertake an investigation to determine whether the animal identified in the complaint is dangerous. Such investigation shall include an opportunity for the owner of the animal to present evidence to the Animal Control Office pertinent to the dangerousness of the animal and may include interviews with the complainant and other persons having personal knowledge regarding the animal and observations of the animal in its normal habitat.

C. Upon completion of the investigation, the Officer shall determine whether or not the animal identified in the complaint is dangerous.

1. If the Officer determines that the animal is not dangerous, the Officer shall inform the complainant and the owner of the determination and no further action shall be taken on the complaint.

2. If the Officer determines that the animal is dangerous, the Officer shall issue a summons to Municipal court.

3. After considering all evidence, the Municipal Judge shall make a determination as to whether or not the animal is dangerous and shall make an appropriate order if the animal is determined to be dangerous.

Article III. Livestock and Fowl

Section 210.120. Hogs, Swine and Pigs.

No person shall keep or maintain or permit the keeping or maintenance of hogs, swine and pigs on premises owned or controlled by him/her within the city unless they have met the pasture requirements set forth in section 210.130 of this code.

Section 210.130. Pasture Requirements For Certain Animals.

No person, having a residence or vacant parcel consisting of less than one (1) acre of land shall have, hold, maintain or contain livestock within the City of Carterville. Up to three (3) animals classified as livestock may be then placed per acre thereafter. Grazing land and shelter areas should be maintained to provide ample food for animals and clean to prevent odor. This shall not apply to dog kennels or to the keeping of chickens as governed by section 210.140 below.

Section 210.135. Sanitary Maintenance of Stables, Barns, Pens, Etc., Required.

A. At all times, every stable, barn, pen or other place wherein animals or fowl are kept within the City limits shall be kept in a clean and sanitary condition.

B. No ventilators or windows which may be used as ventilators shall be constructed in the walls of a stable if within twenty (20) feet of adjacent property lines, except by special written consent of the City Council. All stables and barns must be ventilated by means of louver ventilators in the roof or by openings in area walls where such walls are more than twenty (20) feet from adjacent property lines.

Section 210.140. Chickens and Other Domestic Fowl.

Chickens (excluding roosters) may be kept in a quantity not to exceed (6) unless property consists of one or more continuous acres.

1. No person, residence or household shall have, hold, maintain or contain more than a total of six (6) chickens, all of which shall be provided access to a coop which provides shelter from the elements. No coop shall be located closer than twelve (12) feet to the nearest portion of any building occupied or used in any way by human beings, other than the dwelling occupied by the owner, nor be closer than five (5) feet to the nearest property line.

2. Every coop or pen shall be kept so that no offensive, disagreeable or noxious smell or odor shall arise there from to the injury or annoyance of any neighbors. Any coop and the pen wherein chickens are harbored shall be kept in a clean and sanitary condition, devoid of all rodents and vermin, and free from objectionable odors. Coops shall be constructed in such a way as to be dry at all times on the inside. The Codes Inspector may at any time inspect such coop or pen and issue any order as may be necessary to carry out the provisions of this Section.

3. It shall be unlawful for any owner, keeper, or harborer to maintain or possess chickens within the City without first applying for and obtaining a special animal permit from the City Clerk or his or her designee. The cost of the permit shall be twenty dollars ($20.00) annually (July 1st through one calendar year).

4. The City Council, upon receipt of a written petition signed by all said neighbors stating they have no objection, may allow a variance of up to twenty-five percent (25%) from the minimum permitted distances as specified in Subparagraph (1) above. Owners, keepers, or harborers who have three (3) or more valid complaints of violations or nuisance made within any twelve (12) month period shall have their special animal permit revoked by the Codes Inspector, in addition to any other penalties provided for herein.

Section 210.150. Yard Enclosures For Birds and Small Animals Other Than Dogs or Cats.

No person shall keep or maintain or permit the keeping or maintenance of any dove or pigeon cote, rabbit hutch or other yard enclosure for the housing of fowl or small animals other than dogs or cats

unless such enclosure is located more than fifty (50) feet at the nearest point from any dwelling house, place of business of another, a church or school.

Section 210.160. Maintenance of Shelters and Enclosures For Animals or Fowl Generally.

Natural or artificial shelters appropriate to the local climatic conditions for the particular species of animal or fowl shall be provided for all animals or fowl. Each such shelter shall be erected and maintained in conformity with applicable building code requirements as set forth in this Code. Each such shelter and enclosure shall be kept so that no offensive, disagreeable or noxious odor shall arise therefrom to the injury, annoyance or inconvenience of any inhabitant of the neighborhood. A suitable method of drainage shall be provided to eliminate standing water and soggy ground in all such shelters and enclosures. In addition to these general requirements, shelters for dogs and cats shall consist of a moisture-proof and wind-proof structure of suitable size to accommodate the animal.

Section 210.170. Maintenance of Shelters and Enclosures For Animals or Fowl — Cleaning and Disinfection Requirements.

The ground or floor of any shelter or enclosure maintained for animal or fowl under Section 210.140 shall be cleaned regularly. All waste, manure and litter shall be removed from the shelter or enclosure as to minimize hazard of disease and to minimize odor. All such shelters and enclosures shall be disinfected with a disinfectant appropriate to the circumstance. Disposal of waste, manure and litter shall be accomplished in accordance with the requirements of Sections 215.680 et seq.

Section 210.180. Enforcement — Abatement of Nuisance.

A. It shall be the duty of the Police Department, any Animal Control Officer or City Code Enforcement Officer to enforce the provisions of Sections 210.140 and 210.150.

B. It shall be unlawful for any person to obstruct any Police Officer, Animal Control Officer or Code Officer in the lawful discharge of his/her duty under this Section; and any person who shall violate, neglect, fail or refuse to comply with any provision of Sections 210.140 and 210.150 shall, on conviction thereof, be punished as provided in Section 100.110 and if it shall appear to the Judge of the Municipal Court or its successor that the violation complained of continues to exist, the Judge shall make an order directing the Chief of Police, Animal Control Officer or Code Enforcement Officer to abate such violation forthwith and immediately to report the expense thereof to the court who shall as part of the cost of such prosecution render judgment against the defendant for the amount of such expense, which shall be collected as other fines and costs.

Article IV. Miscellaneous Provisions

Section 210.190. Willful Poisoning Prohibited.

No person shall willfully administer any poison to any animal or fowl within the City or put out or expose any poisonous substance, in solid or liquid form, where it may be taken, eaten or swallowed by any animal or fowl. This Section shall not apply to rats, mice or insects.

Section 210.200. Trapping Prohibited.

A. No person shall use, or permit to be used, any trap, snare or other trapping device for the purpose of collecting, catching, killing or trapping any animal within the City limits.

B. The provisions of this Section shall not be applicable to the use of such devices by the City Animal Control Officer or by the City Police in the exercise of their official duties, nor shall it apply to rats, mice or insects.

Section 210.210. Wild Birds and Bird Nests Protected.

No person shall kill or in any manner hurt or harm any wild bird or destroy the nest or eggs of any wild bird.

Section 210.220. Possession of Animals For Experimental Purposes Prohibited.

It shall be unlawful for any person to buy, sell or have in his/her possession for the purpose of selling any animal for biological dissecting or any experimental purposes whatsoever.

Section 210.230. Animal Pound Designated — Expenses of Pound.

The Joplin Humane Society and/or such other place or places as may be designated by the City Council are hereby designated as the City Pound for the purpose of implementing various provisions of this Chapter.

Section 210.240. Impoundment — Citation in Lieu of Impoundment — Notice To Owners — Disposition of Impounded Animals and Fowl.

A. Animals and fowl found running at large contrary to the provisions of this Chapter shall be taken up by the Animal Control Officer or City Police and impounded in the shelter designated by the City as the City Pound and therein confined in a humane manner for a period of not less than seven (7) days and may thereafter be disposed of by sale or in another humane manner if not claimed by their owners. Animals and fowl not claimed by their owners before the expiration of seven (7) days shall become the property of the City and may be disposed of thereafter at the discretion of such authority.

B. When an animal or fowl is found running at large and its ownership is known to the Animal Control Officer or Police Department, it need not be held, but the Animal Control Officer or Police may, in their discretion, cite the owner to appear in Municipal Court to answer to charges of violation of this Chapter.

C. Immediately upon impounding any animal or fowl, the Animal Control Officer or Police shall make reasonable effort to notify and inform its owner of the conditions whereby he/she may regain custody of his/her impounded property.

Section 210.250. Animal Bites, Quarantine, and Rabies – Observation or Diagnosis.

The owner shall immediately confine every rabid animal or animal thought to be exposed to rabies or any animal that has bitten a person.

1. The owner shall, upon demand by the Police or Animal Control Officer, promptly show proof of any rabies vaccination known to be given by a licensed veterinarian and quarantine said animal, or euthanize the animal. If the animal is euthanized before the quarantine period is up, the head must be sent for rabies evaluation at owner's expense.

2. If a current rabies vaccination certificate from a licensed veterinarian is provided, the animal may be quarantined at home inside or in a locked cage sufficient for preventing escape if it is not a known ordinance violator. The animal must be examined by a veterinarian at the start of the ten

(10) day quarantine period and re-examined at the end of the ten (10) days and the name and address of the veterinarian provided to animal control. If no proof of a current rabies vaccination can be found, the animal must be quarantined at a licensed veterinarian for a minimum of ten (10) days from the date of exposure. If the animal shows any signs of illness, it must be euthanized and sent for rabies evaluation.

All costs shall be assessed against and paid for by the animal's owner.

3. No person shall kill a known or suspected rabid animal or an animal exposed to rabies or remove such animal from the City limits of Carterville, Missouri, without the permission of the Animal Control Officer or a Police Officer, except when it is necessary to kill such animal to prevent its escape or attack on any person or animal.

4. The location of the remains of any dead animal known or suspected to have been exposed to rabies prior to death shall be reported to an Officer and the remains shall be surrendered to the Officer for possible laboratory examination.

5. The Officer shall have the authority to immediately destroy any animal other than a dog or cat, which is determined to have bitten or scratched a human, if the Officer determines that destruction of such animal is necessary to determine whether such animal is rabid. The Officer shall have the authority to promulgate rules and regulations concerning the handling and disposition of such animals.

Section 210.260. Procedure For and Cost of Redemption of Impounded Animal or Fowl.

Any animal may be redeemed from the Pound by the owner within seven (7) days after its impoundment and until otherwise disposed of by payment to the City Collector of an impounding fee of fifty dollars ($50.00) plus the cost of feeding at three dollars ($3.00) per day during the period of confinement.

Section 210.270. Unlawful Release From City Custody.

It shall be unlawful for any person to release or attempt to release any animal or fowl which may be impounded within the City Pound or which is in the custody of any officer while being taken to the Pound, except in conformity with the provisions of this Chapter.

Section 210.280. Animal Abuse/Neglect/Cruelty.

No person shall impound, harbor or confine or cause to be impounded, harbored or confined in any pound or place any animal and fail to supply proper veterinary care; or shall cruelly overwork any domestic animal or shall cruelly drive or work the same when unfit for labor or shall abandon, beat, ill-treat, torment or cause harm to by physical abuse, undue stress or poisonous substance; or shall allow any place where an animal is kept or may be kept to become unclean or unwholesome and fail to supply the animal, during such confinement, with the following:

1. A structurally sound, properly sanitary, dry and weatherproof shelter suitable for the species, age and condition of the animal, which is free of litter or hazardous substances and objects and which provides access to shade from direct sunlight and from exposure to inclement weather conditions.

2. Wholesome foodstuff suitable for the species, provided at suitable intervals, in a sanitary manner, in quantities sufficient to maintain good health in the animal, considering its age and condition.

3. Constant access or access at suitable intervals to supply of clean, potable, unfrozen water, provided in a sanitary manner and in sufficient amounts for the species to maintain good health in the animal.

4. Normal and prudent attention to the needs of the animal, including all necessary immunizations, parasite control, sufficient exercise and rest to maintain good health and the provision to each sick or injured animal of the necessary veterinary care or humane death.

Section 210.290. Abandonment

No person shall abandon any animal in the City limits of the City. The leaving of an animal on owned or leased property by the owner whose primary physical residence is not at location of said animal or residing on said property for at least seven (7) continuous days constitutes abandonment of animal. (Excluding Livestock)

Section 210.300. Keeping of Large Carnivores and Exotic, Dangerous, or Wild Animals

A. No person shall keep, harbor, have custody of or allow to be kept on the premises exotic, deadly, dangerous or poisonous animal; or any animal which normally lives in the natural state and is not domesticated and/or exhibits vicious tendencies in any place other than a properly licensed and maintained zoological park, circus, scientific or educational institution, research laboratory, veterinary hospital or animal refuge.

B. No person shall:

1. Own or possess a large carnivore.

2. Breed a large carnivore.

3. Transfer ownership or possession of or receive a transfer of ownership or possession of a large carnivore.

Section 210.310. Restraint of Guard Dogs

A. Every owner of a guard or attack dog shall keep such dog confined in a building, compartment or other enclosure. Any such enclosure shall be completely surrounded by a fence at least four (4) feet in height.

B. The areas of confinement shall all have gates and entrances thereto securely closed and locked and all fences properly maintained and escape proof.

C. The provisions of this Section shall not apply to dogs owned or controlled by the government law enforcement agencies.

Section 210.320. Parent or Guardian Responsible for Minor Child's Care of Animal

The parent or guardian of a minor child is responsible for the adequate care and control of any animal owned, kept or harbored by a minor child.

Section 210.330. Exemptions to Ordinance.

The provisions of this Ordinance shall not apply to:

1. Care or treatment performed by a licensed veterinarian within the limits acceptable by the American Veterinary Medical Association.

2. Hunting, fishing or trapping as allowed by Chapter 252, RSMo., including all practices and privileges as allowed under the Missouri Wildlife Code.

3. Facilities and publicly funded zoological parks currently in compliance with the Federal "Animal Welfare Act", as amended.

4. Rodeo practices currently accepted by the Professional Rodeo Cowboys Association.

5. The humane killing of an animal by the owner thereof, the agent of such owner, or by a veterinarian at the request of the owner thereof.

6. The lawful, humane killing of an animal by the operator of an animal shelter, a veterinarian, Law Enforcement Officer or health official.

7. With respect to farm animals, normal or accepted practices or animal husbandry.

8. The killing of an animal by any person at any time such animal is outside of the owned or rented property of the owner or custodian of such animal and the animal is injuring any person or farm animal, but this shall not include Police or guard dogs while working.

9. The killing of house or garden pest.

10. Field trials, training and hunting practices as accepted by the Professional Houndsmen of Missouri.

Chapter 215. Offenses

Article I. General Provisions

Section 215.005. Definitions.

In this Chapter, unless the context requires a different definition, the following shall apply:

AFFIRMATIVE DEFENSE

Has the meaning specified in Section 556.056, RSMo.

BURDEN OF INJECTING THE ISSUE

Has the meaning specified in Section 556.051, RSMo.

COMMERCIAL FILM AND PHOTOGRAPHIC PRINT PROCESSOR

Any person who develops exposed photographic film into negatives, slides or prints or who makes prints from negatives or slides for compensation. The term *"commercial film and photographic print processor"* shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency.

CONFINEMENT

1. A person is in confinement when he/she is held in a place of confinement pursuant to arrest or order of a court and remains in confinement until:

a. A court orders his/her release;

b. He/she is released on bail, bond or recognizance, personal or otherwise; or

c. A public servant having the legal power and duty to confine him/her authorizes his/her release without guard and without condition that he/she return to confinement.

2. A person is not in confinement if:

a. He/she is on probation or parole, temporary or otherwise; or

b. He/she is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport him/her to or from a place of confinement.

CONSENT

Consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

1. It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor;

2. It is given by a person who by reason of youth, mental disease or defect, or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

3. It is induced by force, duress or deception.

CRIMINAL NEGLIGENCE Has the meaning specified in Section 562.016, RSMo.

CUSTODY A person is in custody when he/she has been arrested but has not been delivered to a place of confinement.

DANGEROUS FELONY The felonies of arson in the first degree, assault in the first degree, attempted forcible rape if physical injury results, attempted forcible sodomy if physical injury results, forcible rape, forcible sodomy, kidnapping, murder in the second degree, assault of a Law Enforcement Officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, statutory rape in the first degree when the victim is a child less than twelve (12) years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve (12) years of age at the time of the commission of the act giving rise to the offense, and abuse of a child pursuant to Subdivision (2) of Subsection (3) of Section 568.060, RSMo., and child kidnapping.

DANGEROUS INSTRUMENT Any instrument, article or substance which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.

DEADLY WEAPON Any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged or a switchblade knife, dagger, billy, blackjack or metal knuckles.

FELONY Has the meaning specified in Section 556.016, RSMo.

FORCIBLE COMPULSION Means either:

1. Physical force that overcomes reasonable resistance; or

2. A threat, express or implied, that places a person in reasonable fear of death, serious physical injury, or kidnapping of himself/herself or another person.

INCAPACITATED That physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of his/her conduct, or unable to communicate unwillingness to an act. A person is not *"incapacitated"* with respect to an act committed upon him/her if he/she became unconscious, unable to appraise the nature of his/her conduct, or unable to communicate unwillingness to an act after consenting to the act.

INFRACTION Has the meaning specified in Section 556.021, RSMo.

INHABITABLE STRUCTURE Has the meaning specified in Section 569.010, RSMo.

KNOWINGLY Has the meaning specified in Section 562.016, RSMo.

LAW ENFORCEMENT OFFICER Any public servant having both the power and duty to make arrests for violations of the laws of this State, and Federal Law Enforcement Officers authorized to carry firearms and to make arrests for violations of the laws of the United States.

MISDEMEANOR Has the meaning specified in Section 556.016, RSMo.

OFFENSE Any felony, misdemeanor or infraction.

PHYSICAL INJURY Physical pain, illness, or any impairment of physical condition.

PLACE OF CONFINEMENT Any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held.

POSSESS OR POSSESSED Having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if he/she has the object on his/her person or within easy reach and convenient control. A person has constructive possession if he/she has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one (1) person alone has possession of an object, possession is sole. If two (2) or more persons share possession of an object, possession is joint.

PUBLIC SERVANT Any person employed in any way by a government of this State who is compensated by the government by reason of his/her employment, any person appointed to a position with any government of this State, or any person elected to a position with any government of this State. It includes, but is not limited to, legislators, jurors, members of the judiciary and Law Enforcement Officers. It does not include witnesses.

PURPOSELY Has the meaning specified in Section 562.016, RSMo.

RECKLESSLY Has the meaning specified in Section 562.016, RSMo.

RITUAL OR CEREMONY An act or series of acts performed by two (2) or more persons as part of an established or prescribed pattern of activity.

SERIOUS EMOTIONAL INJURY An injury that creates a substantial risk of temporary or permanent medical or psychological damage manifested by impairment of a behavioral, cognitive or physical condition. *"Serious emotional injury"* shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty.

SERIOUS PHYSICAL INJURY Physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

SEXUAL CONDUCT Acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification.

SEXUAL CONTACT Any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing for the purpose of arousing or gratifying sexual desire of any person.

SEXUAL PERFORMANCE Any performance, or part thereof, which includes sexual conduct by a child who is less than seventeen (17) years of age.

VOLUNTARY ACT Has the meaning specified in Section 562.011, RSMo.

Article II. Offenses Against the Person

Section 215.010. Assault.

A. A person commits the offense of assault if:

1. The person attempts to cause or recklessly causes physical injury to another person;
2. With criminal negligence the person causes physical injury to another person by means of a deadly weapon;
3. The person purposely places another person in apprehension of immediate physical injury;
4. The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person;
5. The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or
6. The person knowingly causes physical contact with an incapacitated person, as defined in Section 475.010, RSMo., which a reasonable person, who is not incapacitated, would consider offensive or provocative.

Section 215.015. Domestic Assault.

A. A person commits the offense of domestic assault if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor as defined in Section 455.010, RSMo.; and

1. The person attempts to cause or recklessly causes physical injury to such family or household member;
2. With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument;
3. The person purposely places such family or household member in apprehension of immediate physical injury by any means;

4. The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to such family or household member;

5. The person knowingly causes physical contact with such family or household member knowing the other person will regard the contact as offensive; or

6. The person knowingly attempts to cause or causes the isolation of such family or household member by unreasonably and substantially restricting or limiting such family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.017. Assault, Fighting.

If any person shall assault, strike, beat or wound another person, or if two (2) or more persons engage in any fight or do each other any willful mischief, he/she or they shall be guilty of a misdemeanor.

Section 215.020. Assault of A Law Enforcement Officer.

A. A person commits the offense of assault of a Law Enforcement Officer, Emergency Personnel or Probation and Parole Officer if:

1. Such person recklessly causes physical injury to a Law Enforcement Officer, Emergency Personnel or Probation and Parole Officer;

2. Such person purposely places a Law Enforcement Officer, Emergency Personnel or Probation and Parole Officer in apprehension of immediate physical injury;

3. Such person knowingly causes or attempts to cause physical contact with a Law Enforcement Officer, Emergency Personnel or Probation and Parole Officer without the consent of the Law Enforcement Officer, Emergency Personnel or Probation and Parole Officer.

B. As used in this Section, *"emergency personnel"* means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in Subdivisions (15), (16) and (17) of Section 190.100, RSMo.

Section 215.025. Endangerment of an Emergency Personnel, Elements – Penalties – Revocation of Driver's License, When.

Offense of endangerment of an emergency responder, elements — penalties — revocation of driver's license, when:

A. A person commits the offense of endangerment of an emergency responder for any of the following offenses when the offense occurs within an active emergency zone:

1. Exceeding the posted speed limit by fifteen miles per hour or more;

2. Passing in violation of subsection 3 of section 304.892;

3. Failure to stop for an active emergency zone flagman or emergency responder, or failure to obey traffic control devices erected, or personnel posted, in the active emergency zone for purposes of controlling the flow of motor vehicles through the zone;

4. Driving through or around an active emergency zone via any lane not clearly designated for motorists to control the flow of traffic through or around the active emergency zone;

5. Physically assaulting, attempting to assault, or threatening to assault an emergency responder with a motor vehicle or other instrument; or

6. Intentionally striking, moving, or altering barrels, barriers, signs, or other devices erected to control the flow of traffic to protect emergency responders and motorists unless the action was necessary to avoid an obstacle, an emergency, or to protect the health and safety of an occupant of the motor vehicle or of another person.

B. Upon a finding of guilt or a plea of guilty for committing the offense of endangerment of an emergency responder under subsection one (1) of this section, if no injury or death to an emergency responder resulted from the offense, the court shall assess a fine of not more than one thousand dollars ($1000.00), and four (4) points shall be assessed to the operator's license pursuant to section 302.302 upon conviction.

C. A person commits the offense of aggravated endangerment of an emergency responder upon a finding of guilt or a plea of guilty for any offense under subsection one (1) of this section when such offense results in the injury or death of an emergency responder. Upon a finding of guilt or a plea of guilty for committing the offense of aggravated endangerment of an emergency responder, in addition to any other penalty authorized by law, the court shall assess a fine of not more than five thousand dollars ($5,000.00) if the offense resulted in injury to an emergency responder, and ten thousand dollars ($10,000) if the offense resulted in the death of an emergency responder. In addition, twelve (12) points shall be assessed to the operator's license pursuant to section 302.302 upon conviction.

D. Except for the offense established under subdivision six (6) of subsection one (1) of this section, no person shall be deemed to have committed the offense of endangerment of an emergency responder except when the act or omission constituting the offense occurred when one or more emergency responders were responding to an active emergency.

E. No person shall be cited for, or found guilty of, endangerment of an emergency responder or aggravated endangerment of an emergency responder, for any act or omission otherwise constituting an offense under subsection one (1) of this section, if such act or omission resulted in whole or in part from mechanical failure of the person's vehicle, or from the negligence of another person or emergency responder.

F. Notwithstanding any provision of this section or any other law to the contrary, the director of the department of revenue or his or her agent shall order the revocation of a driver's license upon its determination that an individual holding such license was involved in a physical accident where his or her negligent acts or omissions substantially contributed to his or her vehicle striking an emergency responder within an active emergency zone where the appropriate visual markings for active emergency zones were properly implemented. The department shall make its determination of these facts on the basis of the report of a law enforcement officer investigating the incident and this determination shall be final unless a hearing is requested and held as provided under subdivision (2) of this subsection. Upon its determination that the facts support a license revocation, the department shall issue a notice of revocation which shall be mailed to the person at the last known address shown on the department's records. The notice is deemed received three days after mailing unless returned by postal authorities. The notice of revocation shall clearly specify the reason and statutory grounds for the revocation, the effective date of the

revocation which shall be at least fifteen days from the date the department issued its order, the right of the person to request a hearing, and the date by which the request for a hearing must be made.

G. An individual who received notice of revocation from the department under this section may seek reinstatement by either:

1. Taking and passing the written and driving portions of the driver's license examination, in which case the individual's driver's license shall be immediately reinstated; or

2. Petitioning for a hearing before a circuit division or associate division of the court in the county in which the emergency zone accident occurred. The individual may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state, and the director shall maintain possession of the person's license to operate a motor vehicle until the termination of any suspension under this subsection. The clerk of the court shall notify the prosecuting attorney of the county, and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing, the court shall determine only:

   a) Whether the person was involved in a physical accident where his or her vehicle struck an emergency responder within an active emergency zone;

   b) Whether the guidelines involving notice and signage were properly implemented in such emergency zone; and

   c) Whether the investigating officer had probable cause to believe the person's negligent acts or omissions substantially contributed to his or her vehicle striking an emergency responder.

If the court determines subparagraph a., b., or c. of this paragraph* not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

3. The department of revenue administrative adjudication to reinstate a driver's license that was revoked under this subsection, and any evidence provided to the department related to such adjudication, shall not be produced by subpoena or any other means and made available as evidence in any other administrative action, civil case, or criminal prosecution. The court's determinations issued under this section, and the evidence provided to the court relating to such determinations, shall not be produced by subpoena or any other means and made available in any other administrative action, civil case, or criminal prosecution. Nothing in this subdivision shall be construed to prevent the department from providing information to the system authorized under 49 U.S.C. Section 31309, or any successor federal law, pertaining to the licensing, identification, and disqualification of operators of commercial motor vehicles.

Section 215.030. Harassment.

A. A person commits the offense of harassment if for the purpose of frightening or disturbing another person he/she:

1. Communicates in writing, by telephone, social media, internet, or any other communication devise a threat to commit a crime against the personal or real property of the other person, or assault any person;

2. Makes a telephone call, social media posting, internet posting or any other or communication in writing and uses coarse language offensive to one of reasonable sensibility;

3. Makes a telephone call, social media post, internet post anonymously; or

4. Makes repeated telephone calls, social media post, or internet post.

Section 215.040. False Imprisonment.

A person commits the offense of false imprisonment if he/she knowingly restrains another unlawfully and without consent so as to interfere substantially with his/her liberty.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.050. Endangering The Welfare of A Child.

A. A person commits the offense of endangering the welfare of a child if:

1. He/she with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen (17) years old;

2. He/she knowingly encourages, aids or causes a child less than seventeen (17) years old to engage in any conduct which causes or tends to cause the child to come within the provisions of Paragraph (d) of Subdivision (2) of Subsection (1) or Subdivision (3) of Subsection (1) of Section 211.031, RSMo.;

3. Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen (17) years old, he/she recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him/her from coming within the provisions of Paragraph (c) of Subdivision (1) of Subsection (1) or Paragraph (d) of Subdivision (2) of Subsection (1) or Subdivision (3) of Subsection (1) of Section 211.031, RSMo.;

4. He/she knowingly encourages, aids or causes a child less than seventeen (17) years of age to enter into any room, building or other structure which is a public nuisance as defined in Section 195.130, RSMo.; or

5. He/she operates a vehicle in violation of Subdivision (2) or (3) of Subsection (1) of Section 565.024, RSMo., or Subdivision (4) of Subsection (1) of Section 565.060, RSMo., or Sections 342.020 or 342.030 of this Code, while a child less than seventeen (17) years old is present in the vehicle.

B. Nothing in this Section shall be construed to mean the welfare of a child is endangered for the sole reason that he/she is being provided non-medical remedial treatment recognized and permitted under the laws of this State.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.055. Leaving A Child Unattended in A Motor Vehicle.

A. *Definitions.* As used in this Section, the following terms shall have these prescribed meanings:

COLLISION The act of a motor vehicle coming into contact with an object or a person.

INJURY Physical harm to the body of a person.

MOTOR VEHICLE Any automobile, truck, truck-tractor, or any motorbus or motor-propelled vehicle not exclusively operated or driven on fixed rails or tracks.

UNATTENDED Not accompanied by an individual fourteen (14) years of age or older.

B. A person commits the offense of leaving a child unattended in a motor vehicle if such person knowingly leaves a child ten (10) years of age or less unattended in a motor vehicle and such child injures another person by causing a motor vehicle collision or by causing the motor vehicle to injure a pedestrian.

Note—Under certain circumstances this offense can be a felony under state law.

Article III. Offenses Concerning Administration of Justice

Section 215.060. Concealing An Offense.

A. A person commits the offense of concealing an offense if:

1. He/she confers or agrees to confer any pecuniary benefit or other consideration to any person in consideration of that person's concealing of any offense, refraining from initiating or aiding in the prosecution of an offense, or withholding any evidence thereof; or

2. He/she accepts or agrees to accept any pecuniary benefit or other consideration in consideration of his/her concealing any offense, refraining from initiating or aiding in the prosecution of an offense, or withholding any evidence thereof.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.065. Obstructing Investigation or Service of Process.

A. It shall be unlawful for any person to knowingly and willfully *obstruct*, resist or oppose any officer of the city in the service or execution, or in the attempt to serve or execute any writ, warrant or process, original or judicial, or in the discharge of an investigation or any other duty.

B. For the purposes of this section, physical *obstruction*, giving false information, failure to fully cooperate, etc., shall be deemed violations of this section.

Section 215.070. Hindering Prosecution.

A. A person commits the offense of hindering prosecution if for the purpose of preventing the apprehension, prosecution, conviction or punishment of another for conduct constituting a crime he/she:

1. Harbors or conceals such person;

2. Warns such person of impending discovery or apprehension, except this does not apply to a warning given in connection with an effort to bring another into compliance with the law;

3. Provides such person with money, transportation, weapon, disguise or other means to aid him/her in avoiding discovery or apprehension; or

4. Prevents or obstructs, by means of force, deception or intimidation, anyone from performing an act that might aid in the discovery or apprehension of such person.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.075. Tampering with Physical Evidence.

A person commits the offense of tampering with physical evidence if he or she:

1. Alters, destroys, suppresses or conceals any record, document or thing with purpose to impair its verity, legibility or availability in any official proceeding or investigation; or
2. Makes, presents or uses any record, document or thing knowing it to be false with the purpose to mislead a public servant who is or may be engaged in any official proceeding or investigation.

Section 215.080. Refusal To Identify As A Witness.

A person commits the offense of refusal to identify as a witness if, knowing he/she has witnessed any portion of a crime, or of any other incident resulting in physical injury or substantial property damage, upon demand by a Law Enforcement Officer engaged in the performance of his/her official duties, he/she refuses to report or gives a false report of his/her name and present address to such officer.

Section 215.090. Disturbing A Judicial Proceeding.

A person commits the offense of disturbing a judicial proceeding if, with purpose to intimidate a judge, attorney, juror, party or witness and thereby to influence a judicial proceeding, he/she disrupts or disturbs a judicial proceeding by participating in an assembly and calling aloud, shouting, or holding or displaying a placard or sign containing written or printed matter concerning the conduct of the judicial proceeding or the character of a judge, attorney, juror, party or witness engaged in such proceeding, or calling for or demanding any specified action or determination by such judge, attorney, juror, party or witness in connection with such proceeding.

Section 215.100. Tampering With A Witness — Tampering With A Victim.

A. A person commits the offense of tampering with a witness if, with purpose to induce a witness or a prospective witness to disobey a subpoena or other legal process, or to absent himself/herself or avoid subpoena or other legal process, or to withhold evidence, information or documents, or to testify falsely, he/she:

1. Threatens or causes harm to any person or property;
2. Uses force, threats or deception;
3. Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness; or
4. Conveys any of the foregoing to another in furtherance of a conspiracy.

B. A person commits the offense of "victim tampering" if, with purpose to do so, he/she prevents or dissuades or attempts to prevent or dissuade any person who has been a victim of any crime or a person who is acting on behalf of any such victim from:

1. Making any report of such victimization to any Peace Officer or State, local or Federal Law Enforcement Officer or prosecuting agency or to any judge;

2. Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof; or

3. Arresting or causing or seeking the arrest of any person in connection with such victimization.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.110. Improper Communication.

A person commits the offense of improper communication if he/she communicates, directly or indirectly, with any juror, special master, referee or arbitrator in a judicial proceeding, other than as part of the proceedings in a case, for the purpose of influencing the official action of such person.

Section 215.120. False Impersonation.

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

1. Falsely represents himself/herself to be a public servant with purpose to induce another to submit to his/her pretended official authority or to rely upon his/her pretended official acts, and

a. Performs an act in that pretended capacity; or

b. Causes another to act in reliance upon his/her pretended official authority.

2. Falsely represents himself/herself to be a person licensed to practice or engage in any profession for which a license is required by the laws of this State with purpose to induce another to rely upon such representation, and

a. Performs an act in that pretended capacity; or

b. Causes another to act in reliance upon such representation.

3. Upon being arrested, falsely represents himself/herself, to a Law Enforcement Officer, with the first and last name, date of birth or Social Security number, or a substantial number of identifying factors or characteristics as that of another person that results in the filing of a report or record of arrest or conviction for an infraction, misdemeanor or felony that contains the first and last name, date of birth and Social Security number, or a substantial number of identifying factors or characteristics to that of such other person as to cause such other person to be identified as the actual person arrested or convicted.

B. If a violation of Subsection (A)(3) hereof is discovered prior to any conviction of the person actually arrested for an underlying charge, then the prosecuting attorney, bringing any action on the underlying charge shall notify the court thereof, and the court shall order the false-identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.

C. Any person who is the victim of a false impersonation and whose identity has been falsely reported in arrest or conviction records may move for expungement and correction of said records under the procedures set forth in Section 610.123, RSMo. Upon a showing that a substantial number of identifying factors of the victim was falsely ascribed to the person actually arrested or convicted, the court shall order the false identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate factors from the arrest and court records.

Section 215.130. False Reports.

A. A person commits the offense of making a false report if he/she knowingly:

1. Gives false information to any person for the purpose of implicating another person in a crime or offense;

2. Makes a false report to a Law Enforcement Officer that a crime or offense has occurred or is about to occur; or

3. Makes a false report or causes a false report to be made to a Law Enforcement Officer, security officer, Fire Department or other organization, official or volunteer which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response has occurred or is about to occur.

B. It is a defense to a prosecution under Subsection (A) of this Section that the actor retracted the false statement or report before the Law Enforcement Officer or any other person took substantial action in reliance thereon.

C. The defendant shall have the burden of injecting the issue of retraction under Subsection (B) of this Section.

Section 215.135. Misuse of Emergency Telephone System.

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

Emergency: Means any incident involving danger to life or property that calls for an emergency response dispatch of police, fire, EMS or other public safety organization.

Misuse: Means any act which improperly uses the emergency telephone service, including but not limited to repeatedly calling "*911*" for nonemergency situations, causing operators or equipment to be in use when emergency situations may need such operators or equipment.

Repeatedly: Means calling the emergency telephone service three or more times within a 30day period.

B. *Misuse* unlawful:
It shall be unlawful for any person to *misuse* the emergency telephone service.

C. Penalty for violation:
Any person violating this section shall be found guilty of a misdemeanor. All penalties and fines shall be set by the Municipal Judge in accordance with state law.

Section 215.140. Resisting or Interfering With Arrest, Detention or Stop.

A. A person commits the offense of resisting or interfering with arrest, detention or stop if, knowing that a Law Enforcement Officer is making an arrest or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a Law Enforcement Officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:

1. Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or

2. Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.

B. This Section applies to arrests, stops or detentions with or without warrants and to arrests, stops or detentions for any crime, infraction or ordinance violation.

C. A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person has seen or should have seen clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing that person.

D. It is no defense to a prosecution under Subsection (A) of this Section that the Law Enforcement Officer was acting unlawfully in making the arrest. However, nothing in this Section shall be construed to bar civil suits for unlawful arrest.
Note—Under certain circumstances this offense can be a felony under state law.

Section 215.150. Escape or Attempted Escape From Custody.

A person commits the offense of escape from custody or attempted escape from custody if, while being held in custody after arrest for any crime or offense, he/she escapes or attempts to escape from custody.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.155. Interference With Legal Process.

A. A person commits the offense of interference with legal process if, knowing any person is authorized by law to serve process, for the purpose of preventing such person from effecting the service of any process, he/she interferes with or obstructs such person.

B. "*Process*" includes any writ, summons, subpoena, warrant other than an arrest warrant, or other process or order of a court.

C. Interference with legal process is an ordinance violation.

Article IV. Offenses Concerning Public Safety

Section 215.160. Abandonment of Airtight or Semi-Airtight Containers.

A. A person commits the offense of abandonment of airtight icebox if he/she abandons, discards or knowingly permits to remain on premises under his/her control, in a place accessible to children, any abandoned or discarded icebox, refrigerator or other airtight or semi-airtight container which has a capacity of one and one-half (1½) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein.

B. Subsection (A) of this Section does not apply to an icebox, refrigerator or other airtight or semi airtight container located in that part of a building occupied by a dealer, warehouseman or repairman.

C. The defendant shall have the burden of injecting the issue under Subsection (B) of this Section.

Section 215.170. Littering.

A person commits the offense of littering if he/she throws or places or causes to be thrown or placed any glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, refuse or rubbish of any kind, nature or description on the right-of-way of any public road or State highway or on or in any of the waters in this City or on the banks of any stream or on any land or water owned, operated or leased by the State, any board, department, agency or commission thereof or on any land or water owned, operated or leased by the Federal Government or on any private real property owned by another without his/her consent.

Section 215.180. Littering Via Carcasses.

A. If any person or persons shall put any dead animal, carcass or part thereof, the offal or any other filth into any well, spring, brook, branch, creek, pond or lake, every person so offending shall, on conviction thereof, be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00).

B. If any person shall remove or cause to be removed and placed in or near any public road or highway, or upon premises not his/her own, or in any river, stream or watercourse any dead animal, carcass or part thereof, or other nuisance to the annoyance of the citizens of this City, or any of them, every person so offending shall, upon conviction thereof, be fined for every offense not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00), and if such nuisance be not removed within three (3) days thereafter, it shall be deemed a second (2nd) offense against the provisions of this Section.

Section 215.190. Corrupting or Diverting Water Supply.

Whoever willfully or maliciously poisons, defiles or in any way corrupts the water of a well, spring, brook or reservoir used for domestic or municipal purposes, or whoever willfully or maliciously diverts, dams up and holds back from its natural course and flow any spring, brook or other water supply for domestic or municipal purposes, after said water supply shall have once been taken for use by any person or persons, corporation, Town or City for their use, shall be adjudged guilty of an ordinance violation and punished by a fine not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00), or by imprisonment in the City or County Jail not exceeding ninety (90) days, or by both such fine and imprisonment, and shall be liable to the party injured for three (3) times the actual damage sustained, to be recovered by suit at law.

Section 215.200. Abandoning Motor Vehicle or Trailer.

A. A person commits the offense of abandoning a motor vehicle or trailer if he/she abandons any motor vehicle or trailer on the right-of-way of any public road or State highway or on or in any of the waters in this State or on the banks of any stream or on any land or water owned, operated or leased by the State, any board, department, agency or commission thereof or any political subdivision thereof or on any land or water owned, operated or leased by the Federal Government or on any private real property owned by another without his/her consent.

B. For purposes of this Section, the last owner of record of a motor vehicle or trailer found abandoned and not shown to be transferred pursuant to Sections 301.196 and 301.197, RSMo., shall be deemed prima facie to have been the owner of such motor vehicle or trailer at the time it was abandoned and to have been the person who abandoned the motor vehicle or trailer or caused or

procured its abandonment. The registered owner of the abandoned motor vehicle or trailer shall not be subject to the penalties provided by this Section if the motor vehicle or trailer was in the care, custody or control of another person at the time of the violation. In such instance, the owner shall submit such evidence in an affidavit permitted by the court setting forth the name, address, and other pertinent information of the person who leased, rented, or otherwise had care, custody or control of the motor vehicle or trailer at the time of the alleged violation. The affidavit submitted pursuant to this Subsection shall be admissible in a court proceeding adjudicating the alleged violation and shall raise a rebuttable presumption that the person identified in the affidavit was in actual control of the motor vehicle or trailer. In such case, the court has the authority to terminate the prosecution of the summons issued to the owner and issue a summons to the person identified in the affidavit as the operator. If the motor vehicle or trailer is alleged to have been stolen, the owner of the motor vehicle or trailer shall submit proof that a Police report was filed in a timely manner indicating that the vehicle was stolen at the time of the alleged violation.

C. Any person convicted pursuant to this Section shall be civilly liable for all reasonable towing, storage, and administrative costs associated with the abandonment of the motor vehicle or trailer. Any reasonable towing, storage and administrative costs in excess of the value of the abandoned motor vehicle or trailer that exist at the time the motor vehicle is transferred pursuant to Section 304.156, RSMo., shall remain the liability of the person convicted pursuant to this Section so long as the towing company, as defined in Chapter 304, RSMo., provided the title owner and lienholders, as ascertained by the Department of Revenue records, a notice within the timeframe and in the form as described in Subsection (1) of Section 304.156, RSMo.

Article V. Offenses Concerning Public Peace

Section 215.205. Unnecessary Noises Prohibited.

A. It shall be unlawful for any person to make, continue or cause to be made or continued any excessive, unnecessary unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the City.

B. *Noises Prohibited—Unnecessary Noise Standard.* The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Section, but said enumeration shall be not be deemed to be exclusive, namely:

1. *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

2. *Radios, phonographs, etc.* The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 10:00 P.M. and 6:00 A.M. in

such a manner as to be plainly audible at a distance of fifty (50) feet from the place where it is located shall be prima facie evidence of a violation of this Section.

3. *Loud speakers, amplifiers.* The using, operating or permitting to be played, used or operated of any radio, receiving set, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure or for any other purpose, unless upon permit issued by the Chief of Police.

4. *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, or on private or public property, at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence or of any persons in the vicinity. Yelling, shouting, hooting, whistling or singing, as provided above, between the hours of 10:00 P.M. and 6:00 A.M. in such a manner as to be plainly audible at a distance of fifty (50) feet from the person who has yelled, shouted, hooted, whistled or sung shall be prima facie evidence of a violation of this Section.

5. *Animals, birds, etc.* The keeping of any animal or bird which by causing frequent or long, continued noise shall disturb the comfort or repose of any persons in the vicinity.

6. *Exhaust.* The discharge into the open air of the exhaust of any steam engine, internal combustion engine, including any stationary gasoline or gas engine not employed in portable uses or motorboat or motor vehicle, unless the noise from such engine is muffled and equipped with a muffler device sufficient to deaden such noise.

7. *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

8. *Construction or repairing of buildings.* The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 6:00 A.M. and 10:00 P.M. on weekdays, except in case of urgent necessity and in the interest of public health and safety and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection (including excavation), demolition, alteration or repair of any building or the excavation of streets or highways within the hours of 10:00 P.M. to 6:00 A.M. and if he/she shall further determine that loss or inconvenience would result to any party in interest, he/she may grant permission for such work to be done between the hours of 10:00 P.M. and 6:00 A.M. upon application being made at the time the permit for the work is awarded or during the progress of the work.

9. *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

10. *Pile drivers, hammers, etc.* The operation between the hours of 10:00 P.M. and 6:00 A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

11. *Domestic power tools.* Operating or permitting the operation or any mechanically, electrically or pneumatic powered saw, drill, sander, grinder, lawn or garden tool or similar device used in

residential areas between the hours of 10:00 P.M. and 6:00 A.M. so as to disturb the comfort or repose of any persons in the vicinity.

12. *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

13. *Explosive devices.* Use of any explosive device, unless otherwise permitted by law or special permission, which creates implosive sound so as to disturb the comfort or repose of any persons in the vicinity.

C. *Violation, Penalty.* Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished in accordance with Section 100.110 of this Code. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

D. *Additional Remedy, Injunction.* As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal sensitivity or which endangers the comfort, repose, health or peace of residents in the area shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Section 215.210. Peace Disturbance.

A. A person commits the offense of peace disturbance if:

1. He/she unreasonably and knowingly disturbs or alarms another person or persons by:

a. Loud noise;

b. Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient;

c. Threatening to commit a felonious act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out;

d. Fighting; or

e. Creating a noxious and offensive odor.

2. He/she is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:

a. Vehicular or pedestrian traffic; or

b. The free ingress or egress to or from a public or private place.

Section 215.215. Private Peace Disturbance.

A. A person commits the offense of private peace disturbance if he/she is on private property and unreasonably and purposely causes alarm to another person or persons on the same premises by:

1. Threatening to commit a crime or offense against any person; or

2. Fighting.

Section 215.217. Disorderly Conduct.

1. That any person who shall do or engage in any of the following acts shall be guilty of the offense of disorderly conduct:

   a) Act in violent or tumultuous manner toward another whereby such other person is placed in fear of safety of his life, limb or health.

   b) Act in violent or tumultuous manner toward another whereby property of such other person is placed in danger of being taken, destroyed or damaged.

   c) Endanger the lawful pursuits of another by acts of violence, angry threats or abusive conduct.

   d) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger life, limb, health or property of another.

   e) Assemble or congregate with another or others for purpose of causing, provoking or engaging in any fight or brawl.

   f) Be found jostling or roughly crowding or pushing any person in any public place.

   g) Collect with others or in crowds for unlawful purposes, as defined by state law, this Code or other Ordinances.

   h) Assembly or congregate with another or others for purpose or with intent to engage in gaming or gambling.

   i) Frequent any public place with intent to obtain money from other persons by illegal and fraudulent schemes, tricks, artifices or devices.

   j) Assemble with others for the purpose of engaging in any fraudulent scheme, device or trick to obtain any valuable thing in any place or from any person in the city, or who shall aid or abet therein.

   k) Accost or attempt to force his/her company upon another

   l) Utters, while in a stat of anger, and directed toward another person then present, any bawdy, lewd or obscene words or epithets.

   m) Frequents any place where gaming, gambling or illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated.

   n) Use “fighting words” directed towards any person.

   o) Assemble or congregate with others for the purpose of trouncing upon another.

p) By acts of violence interfere with another's pursuit of a lawful occupation or task.

q) Congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered by city police or other lawful authority.

The following conduct on the grounds or within the buildings of a commercial establishment or on the premises of a business is prohibited:

a. Unlawful entry on posted premises. It shall be unlawful for any person, other than a law enforcement officer in the performance of his duty, to enter on or in any portion of any grounds or buildings of a commercial establishment where signs have previously been posted by the management thereof prohibiting such entry, which prohibition may be limited to persons of certain ages or sex, or may relate to employees or to non-employees, or to any other reasonable class, except that no prohibition shall be effective if it shall be based upon race, creed, color, religious belief or national origin.

b. Interference with patrons. It shall be unlawful for any person, other than a law enforcement officer in the performance of his duty or an employee of a commercial establishment, to interfere with any person peacefully coming onto the grounds or into the buildings of a commercial establishment, or to interfere with any such person peacefully attempting to leave the grounds or buildings of any such establishment, or to interfere with any such person peacefully moving about such buildings or grounds by the use of physical force or by the imposition of physical injury or by the threat of such force or injury.

c. Harassment of patrons. It shall be unlawful for any person to harass, annoy, threaten, curse at, abuse, mock or intentionally jostle any patron of any commercial establishment within the buildings or upon the grounds thereof, except that this subsection shall not apply to a law enforcement officer performing his duty or to an employee of such a commercial establishment.

d. Noisy or disturbing conduct. It shall be unlawful for any person to conduct himself in an unusually loud or disturbing manner on the grounds or within the building of a commercial establishment.

e. Use of lewd, obscene, profane or indecent language. No person shall use lewd, obscene or profane language toward or with reference to another person or indecent language toward or with reference to another person when the indecent language by its utterance inflicts injury or tends to incite an immediate breach of the peace when such language is used on a public street or other public place or in any public dancehall, club, dance, skating rink or place of business open to public patronage, or in any business as defined in this division.

f. Lewd or lascivious behavior. No person shall conduct himself in a lewd, wanton or lascivious manner on the premises of a business.

g. Littering. No person shall throw or deposit litter anywhere on the grounds of a business, except in proper receptacles.

Penalty: Any person violating this ordinance will be found guilty of a misdemeanor. All penalties and fines shall be set by the Municipal Judge in accordance with state law.

Section 215.220. Peace Disturbance Definitions.

For the purposes of Sections 215.210 and 215.215, the following words shall have the meanings set out herein:

PRIVATE PROPERTY

Any place which at the time is not open to the public. It includes property which is owned publicly or privately.

PROPERTY OF ANOTHER

Any property in which the actor does not have a possessory interest.

PUBLIC PLACE

Any place which at the time is open to the public. It includes property which is owned publicly or privately.

If a building or structure is divided into separately occupied units, such units are separate premises.

Section 215.222. Unlawful Protests At Funeral and Other Services.

A. It shall be unlawful for any person to engage in picketing or other protest activities in front of or about any location at which a funeral is held, within one (1) hour prior to the commencement of any funeral, and until one (1) hour following the cessation of any funeral. Each day on which a violation occurs shall constitute a separate offense. Violation of this Section is a Class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this Section, in which case the violation is a Class A misdemeanor.

B. For the purposes of this Section, *"funeral"* means the ceremonies, processions and memorial services held in connection with the burial or cremation of the dead.

Section 215.225. Unlawful Assembly.

A person commits the offense of unlawful assembly if he/she knowingly assembles with six (6) or more other persons and agrees with such persons to violate any of the criminal laws of this State or of the United States with force or violence.

Section 215.227. Loitering on Closed Premises.

No person, except the owner, tenant or other person in possession, or their invitees, shall loiter upon or about the premises of any abandoned structure, abandoned property, business, industrial building, church, school, or motor vehicle dealership, whether new or used.

A citation for an offense of this section may only be issued after the offender has been ordered to 'move along' by a law enforcement, owner or agent of the business, industrial building, church, school, abandoned structure, abandoned property or motor vehicle dealership. Violator need not be given warning for each property loitered.

Section 215.230. Rioting.

A person commits the offense of rioting if he/she knowingly assembles with six (6) or more other persons and agrees with such persons to violate any of the criminal laws of this State or of the United

States with force or violence and thereafter, while still so assembled, does violate any of said laws with force or violence.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.235. Refusal To Disperse.

A person commits the offense of refusal to disperse if, being present at the scene of an unlawful assembly or at the scene of a riot, he/she knowingly fails or refuses to obey the lawful command of a Law Enforcement Officer to depart from the scene of such unlawful assembly or riot.

Article VI. Offenses Concerning Weapons and Firearms

Section 215.240. Definitions.

The following words, when used in this Article, shall have the meanings set out herein:

ANTIQUE, CURIO OR RELIC FIREARM

Any firearm so defined by the National Gun Control Act, 18 U.S.C. Title 26, Section 5845, and the United States Treasury/Bureau of Alcohol, Tobacco and Firearms, 27 CFR Section 178.11:

1. Antique firearm is any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, said ammunition not being manufactured any longer; this includes any matchlock, wheel lock, flintlock, percussion cap or similar type ignition system, or replica thereof.

2. Curio or relic firearm is any firearm deriving value as a collectible weapon due to its unique design, ignition system, operation or at least fifty (50) years old, associated with a historical event, renown personage or major war.

BLACKJACK

Any instrument that is designed or adapted for the purpose of stunning or inflicting physical injury by striking a person, and which is readily capable of lethal use.

CONCEALABLE FIREARM

Any firearm with a barrel less than sixteen (16) inches in length, measured from the face of the bolt or standing breech.

DEFACE

To alter or destroy the manufacturer's or importer's serial number or any other distinguishing number or identification mark.

EXPLOSIVE WEAPON

Any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death, serious physical injury, or substantial property damage; or any device designed or adapted for delivering or shooting such a weapon.

FIREARM

Any weapon that is designed or adapted to expel a projectile by the action of an explosive.

FIREARM SILENCER

Any instrument, attachment, or appliance that is designed or adapted to muffle the noise made by the firing of any firearm.

GAS GUN

Any gas ejection device, weapon, cartridge, container or contrivance other than a gas bomb, that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury, but not any device that ejects a repellant or temporary incapacitating substance.

INTOXICATED

Substantially impaired mental or physical capacity resulting from introduction of any substance into the body.

KNIFE

Any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. For purposes of this Article, "knife" does not include any ordinary pocketknife with no blade more than four (4) inches in length.

KNUCKLES

Any instrument that consists of finger rings or guards made of a hard substance that is designed or adapted for the purpose of inflicting serious physical injury or death by striking a person with a fist enclosed in the knuckles.

MACHINE GUN

Any firearm that is capable of firing more than one (1) shot automatically, without manual reloading, by a single function of the trigger.

PROJECTILE WEAPON

Any bow, crossbow, pellet gun, slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person.

RIFLE

Any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger.

SHORT BARREL

A barrel length of less than sixteen (16) inches for a rifle and eighteen (18) inches for a shotgun, both measured from the face of the bolt or standing breech, or an overall rifle or shotgun length of less than twenty-six (26) inches.

SHOTGUN

Any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire a number of shot or a single projectile through a smooth bore barrel by a single function of the trigger.

SPRING GUN

Any fused, timed or non-manually controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death.

SWITCHBLADE KNIFE

Any knife which has a blade that folds or closes into the handle or sheath, and

1. That opens automatically by pressure applied to a button or other device located on the handle; or
2. That opens or releases from the handle or sheath by the force of gravity or by the application of centrifugal force.

Section 215.250. Weapons — Carrying Concealed — Other Unlawful Use.

A. A person commits the offense of unlawful use of weapons if he/she knowingly:

1. Sets a spring gun;
2. Discharges or shoots any firearm, rifle, shotgun, Taser, projectile weapon, or any other weapon that is designed or adapted to expel a projectile, whether ball or any kind of explosive whatsoever or electrical current.
3. Exhibits, in the presence of one (1) or more persons, any weapon readily capable of lethal use in an angry or threatening manner;
4. Possesses a firearm or projectile weapon while intoxicated;
5. Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

B. Subparagraphs (2), (3), and (5) of Subsection (A) of this Section shall not apply to or affect any of the following:

1. All State, County and Municipal Peace Officers who have completed the training required by the Police Officer Standards and Training Commission pursuant to Sections 590.030 to 590.050, RSMo., and possessing the duty and power of arrest for violation of the general criminal laws of the State or for violation of ordinances of Counties or Municipalities of the State, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
2. Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
3. Members of the Armed Forces or National Guard while performing their official duty;
4. Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the State and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the Federal judiciary;
5. Any person whose bona fide duty is to execute process, civil or criminal;

6. Any Federal Probation Officer;

7. Any State Probation or Parole Officer, including supervisors and members of the Board of Probation and Parole;

8. Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the Board of Police Commissioners under Section 84.340, RSMo.; and

9. Any coroner, deputy coroner, medical examiner or assistant medical examiner.

C. Subparagraphs (1), (5), (6) and (7) of Subsection (A) of this Section do not apply when the actor is transporting such weapons in a non-functioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subparagraph (1) of Subsection (A) of this Section does not apply to any person twenty-one (21) years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his/her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this State. Subparagraph (7) of Subsection (A) of this Section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.

D. Subparagraphs (1), (6) and (7) of Subsection (A) of this Section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to Sections 571.101 to 571.121, RSMo., or a valid permit or endorsement to carry concealed firearms issued by another State or political subdivision of another State.

E. Subparagraphs (3), (4), (5), (6) and (7) of Subsection (A) of this Section shall not apply to persons who are engaged in a lawful act of defense pursuant to Section 563.031, RSMo.

F. Nothing in this Section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.255. Possession, Manufacture, Transport, Repair, Sale of Certain Weapons.

A. Except as provided in Subsection (B) of this Section, it shall be unlawful for any person to knowingly possess, manufacture, transport, repair or sell:

1. An explosive weapon;

2. An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;

3. A machine gun;

4. A gas gun;

5. A short-barreled rifle or shotgun;

6. A firearm silencer;

7. A switchblade knife;

8. A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm; or

9. Knuckles.

B. A person does not commit an offense under this Section if his/her conduct:

1. Was incident to the performance of official duty by the Armed Forces, National Guard, a governmental law enforcement agency, or a penal institution;

2. Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in Paragraph (1) of this Subsection;

3. Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise;

4. Was incident to displaying the weapon in a public museum or exhibition; or

5. Was incident to dealing with the weapon solely as a curio, ornament, or keepsake, or to using it in a manner reasonably related to a lawful dramatic performance; but if the weapon is the type described in Paragraph (1), (3) or (5) of Subsection (A) of this Section it must be in such a non-functioning condition that it cannot readily be made operable. No barreled rifle, short-barreled shotgun, or machine gun may be possessed, manufactured, transported, repaired or sold as a curio, ornament, or keepsake unless such person is an importer, manufacturer, dealer, or collector licensed by the Secretary of the Treasury pursuant to the Gun Control Act of 1968, U.S.C. Title 18, or unless such firearm is an "antique firearm" as defined in Subsection (3) of Section 571.080, RSMo., or unless such firearm has been designated a "collector's item" by the Secretary of the Treasury pursuant to the U.S.C. Title 26, Section 5845(a).

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.260. Defacing Firearm.

A person commits the offense of defacing a firearm if he/she knowingly defaces any firearm.

Section 215.270. Unlawful Transfer of Weapons.

A. A person commits the offense of unlawful transfer of weapons if he/she:

1. Knowingly sells, leases, loans, gives away or delivers a blackjack to a person less than eighteen (18) years old without the consent of the child's custodial parent or guardian or recklessly, as defined in Section 562.016, RSMo., sells, leases, loans, gives away or delivers any firearm to a person less than eighteen (18) years old without the consent of the child's custodial parent or guardian; provided that this does not prohibit the delivery of such weapons to any Peace Officer or member of the Armed Forces or National Guard while performing his/her official duty; or

2. Recklessly, as defined in Section 562.016, RSMo., sells, leases, loans, gives away or delivers a firearm or ammunition for a firearm to a person who is intoxicated.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.275. Possession of Concealable Firearm Unlawful For Certain Persons.

A. A person commits the offense of unlawful possession of a concealable firearm if he/she has any concealable firearm in his/her possession and:

1. He/she has pled guilty to or has been convicted of a dangerous felony, as defined in Section 556.061, RSMo., or of any attempt to commit a dangerous felony, or of a crime under the laws of any State or of the United States which, if committed within this State, would be a dangerous felony, or confined therefor in this State or elsewhere during the five (5) year period immediately preceding the date of such possession; or

2. He/she is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.280. Carrying Concealed Firearms Prohibited — Penalty For Violation.

A. It shall be a violation of this Section, punishable as hereinafter provided, for any person to carry any concealed firearm into:

1. Any Police, Sheriff or Highway Patrol office or station without the consent of the Chief Law Enforcement Officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

2. Within twenty-five (25) feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

3. The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention or correctional institution, prison or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

4. Any courthouse solely occupied by the Circuit, Appellate or Supreme Court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or not such court solely occupies the building in question. This Subdivision shall also include, but not be limited to, any juvenile, family, drug or other court offices, any room or office wherein any of the courts or offices listed in this Subdivision are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by Supreme Court Rule pursuant to Subdivision (6) of this Subsection. Nothing in this Subdivision shall preclude those persons listed in Subsection (B)(1) of Section 215.250 while within their jurisdiction and on duty, those persons listed in Subsections (B)(2) and (3) of Section 215.250, or such other persons who serve in a law enforcement capacity for a court as may be specified by Supreme Court Rule pursuant to Subdivision (6) of this Subsection from carrying a concealed firearm within any of the areas described in this Subdivision. Possession of a firearm in a vehicle on the premises of any of the areas listed in this Subdivision shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

5. Any meeting of the City Council. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

6. Any building owned, leased or controlled by the City of Carterville identified by signs posted at the entrance to the building. This Subsection shall not apply to any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased, or controlled by the City of Carterville. Persons violating this Subsection may be denied entrance to the building, ordered to leave the building and, if employees of the City, be subjected to disciplinary measures for violation.

7. Any establishment licensed to dispense intoxicating liquor or non-intoxicating beer for consumption on the premises, which portion is primarily devoted to that purpose, without the consent of the owner or manager. The provisions of this Subdivision shall not apply to the licensee of said establishment. The provisions of this Subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and that receives at least fifty-one percent (51%) of its gross annual income from the dining facilities by the sale of food. This Subdivision does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this Subdivision authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated.

8. Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of the airport shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

9. Any place where the carrying of a firearm is prohibited by Federal law.

10. Any higher education institution or elementary or secondary school facility without the consent of the Governing Body of the higher education institution or a school official or the district school board. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

11. Any portion of a building used as a child care facility without the consent of the manager. Nothing in this Subdivision shall prevent the operator of a child care facility in a family home from owning or possessing a firearm or a driver's license or non-driver's license containing a concealed carry endorsement.

12. Any riverboat gambling operation accessible by the public without the consent of the owner or manager pursuant to rules promulgated by the Gaming Commission. Possession of a firearm in a vehicle on the premises of a riverboat gambling operation shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

13. Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

14. Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

15. Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one (1) or more signs displayed in a conspicuous place of a minimum size of eleven (11) inches by fourteen (14) inches with the writing thereon in letters of not less than one (1) inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity or person may prohibit persons holding a concealed carry endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry endorsement from carrying a concealed firearm in vehicles owned by the employer.

16. Any sports arena or stadium with a seating capacity of five thousand (5,000) or more. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

17. Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

B. Any person violating any of the provisions of Subsection (A) of this Section shall be punished as follows:

1. If the violator holds a concealed carry endorsement issued pursuant to State law, the violator may be subject to denial to the premises or removal from the premises. If such person refuses to leave the premises and a Peace Officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars ($100.00) for the first (1st) offense. If a second (2nd) citation for a similar violation occurs within a six (6) month period, such person shall be fined an amount not to exceed two hundred dollars ($200.00). If a third (3rd) citation for a similar violation is issued within one (1) year of the first (1st) citation such person shall be fined an amount not to exceed five hundred dollars ($500.00). Upon conviction of charges arising from a citation issued pursuant to this Section, the court shall notify the Sheriff of the County which issued the certificate of qualification for a concealed carry endorsement and the Department of Revenue.

2. If the violator does not hold a current valid concealed carry endorsement issued pursuant to State law, upon conviction of a charge of violating this Section the defendant shall be punished as provided in Section 100.110 of this Code of Ordinances.

3. Employees of the City of Carterville may, in addition to any other punishment hereby, be subject to disciplinary action.

C. It shall be a violation of this Section, punishable by a citation for an amount not to exceed thirty-five dollars ($35.00), for any person issued a concealed carry endorsement pursuant to State law to fail to carry the concealed carry endorsement at all times the person is carrying a concealed firearm, or to fail to display the concealed carry endorsement upon the request of any Peace Officer.

Section 215.285. Discharging Air Gun, Etc.

A. Any person within the limits of this City who shall discharge any BB gun which expels a projectile by means of a spring, air or any other means, paintball gun or air gun or shall shoot any pebble, bullet, slug, arrow or other hard substance by means of a sling, crossbow, rubber band or bow or any other means shall be deemed guilty of an ordinance violation with the exception of .22 caliber or smaller, compressed air or spring action used in a non-malicious manner with direct adult supervision.

Article VII. Offenses Concerning Property

Section 215.290. Tampering.

A. A person commits the offense of tampering if he/she:

1. Tampers with property of another for the purpose of causing substantial inconvenience to that person or to another;
2. Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat or other motor propelled vehicle;
3. Tampers or makes connection with property of a utility; or
4. Tampers with, or causes to be tampered with, any meter or other property of an electric, gas, steam or water utility, the effect of which tampering is either:
    a. To prevent the proper measuring of electric, gas, steam or water service; or
    b. To permit the diversion of any electric, gas, steam or water service.

B. In any prosecution under paragraph (4) of Subsection (A), proof that a meter or any other property of a utility has been tampered with, and the person or persons accused received the use or direct benefit of the electric, gas, steam or water service with one (1) or more of the effects described in paragraph (4) of Subsection (A), shall be sufficient to support an inference which the trial court may submit to the trier of fact from which the trier of fact may conclude that there has been a violation of such subdivision by the person or persons who use or receive the direct benefit of the electric, gas, steam or water service.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.295. Entering, Remaining or Attempting to Enter Unlawfully Into a Vehicle.

A. No person shall enter, attempt to enter into or remain in a vehicle, whether locked or unlocked, for any purpose without the owner or legal possessor of such vehicle's permission or consent. The witnessed act or actions by any person of manipulating door handles or any mechanism used for entry into a vehicle or its compartments shall be prima facie evidence of attempting to enter unlawfully into a vehicle or its compartments.

B. For purposes of this ordinance, vehicle shall include but not limited to passenger cars, trucks, commercial vehicles, motorcycles, motor tricycles, bicycles, motorized bicycles, scooters, trailers,

boats, tractors, farm and lawn equipment, recreational vehicles and campers not in use, utility task vehicles, all-terrain vehicles and golf carts including any compartment in or on such vehicle or any vehicle Missouri law recognizes as a motor vehicle.

Penalties: Any person found to be in violation of this ordinance shall be guilty of a misdemeanor. All penalties and fines shall be set by the Municipal Judge in accordance with state law.

Section 215.300. Property Damage.

A. A person commits the offense of property damage if:

1. He/she knowingly damages property of another; or

2. He/she damages property for the purpose of defrauding an insurer.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.310. Claim of Right.

A. A person does not commit an offense by damaging, tampering with, operating, riding in or upon or making connection with property of another if he/she does so under a claim of right and has reasonable grounds to believe he/she has such a right.

B. The defendant shall have the burden of injecting the issue of claim of right.

Section 215.315. Fountains, Bodies of Water and City-Owned Grounds Not To Be Misused By Certain Practices.

No person shall swim, bathe or wade, or cause any animal to swim, or deposit any stone, stick, paper, carcass, trash, garbage or any other foreign substance of whatever kind or character in any fountain or other water container in any public park within the City, or in any lake, pond, reservoir, well or body of water belonging to, used or controlled by the City, or upon any grounds belonging to, used or controlled by the City.

Section 215.320. Trespass in The First Degree.

A. A person commits the offense of trespass in the first degree if he/she knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property.

B. A person does not commit the offense of trespass by entering or remaining upon real property unless the real property is fenced or otherwise enclosed in a manner designed to exclude intruders or as to which notice against trespass is given by:

1. Actual communication to the actor; or

2. Posting in a manner reasonably likely to come to the attention of intruders.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.330. Trespass in The Second Degree.

A. A person commits the offense of trespass in the second degree if he/she enters unlawfully upon real property of another. This is an offense of absolute liability.

B. Trespass in the second degree is an infraction.

Section 215.335. Trespass of A School Bus.

A person commits the offense of trespass of a school bus if he/she knowingly and unlawfully enters any part of or unlawfully operates any school bus.

Section 215.337. City Parks.

Unless otherwise permitted in writing by the Park Committee of the City, it shall be unlawful for any person or group of persons to be in, upon or about any City park at any time when such park is not open to the public. The parks within the City shall open at 6:00 A.M. every day and close at 8:00 P.M. November 1st through March 31st and close 9:30 P.M. April 1st through October 31st. Prior authorization needs to be given by the Park Committee or Police Department. If given by the Park Committee, the Police Department shall be furnished with a copy of such written authorization.

Section 215.340. Reckless Burning or Exploding.

A person commits the offense of reckless burning or exploding when he/she knowingly starts a fire or causes an explosion and thereby recklessly damages or destroys a building or an inhabitable structure of another.

Section 215.350. Negligent Burning or Exploding.

A person commits the offense of negligent burning or exploding when he/she with criminal negligence causes damage to property of another by fire or explosion.

Section 215.360. Stealing.

A. A person commits the offense of stealing if he/she appropriates property or services of another with the purpose to deprive him/her thereof, either without his/her consent or by means of deceit or coercion.

B. Evidence of the following is admissible in any prosecution pursuant to this Section on the issue of the requisite knowledge or belief of the alleged stealer that:

1. He/she failed or refused to pay for property or services of a hotel, restaurant, inn or boarding house;
2. He/she gave in payment for property or services of a hotel, restaurant, inn or boarding house a check or negotiable paper on which payment was refused;
3. He/she left the hotel, restaurant, inn or boarding house with the intent to not pay for property or services;
4. He/she surreptitiously removed or attempted to remove his/her baggage from a hotel, inn or boarding house; or
5. He/she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits or reproduces a retail sales receipt, price tag or universal price code label or possesses, with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.365. Theft of Motor Fuel.

A. No person shall drive a motor vehicle so as to cause it to leave the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of such motor vehicle unless payment or authorized charge for motor fuel dispensed has been made.

B. A person found guilty or pleading guilty to stealing pursuant to Section 215.360 for the theft of motor fuel as described in Subsection (A) shall have his/her driver's license suspended by the court beginning on the date of the court's order of conviction. The person shall submit all of his/her operator's and chauffeur's licenses to the court upon conviction and the court shall forward all such driver's licenses and the order of suspension of driving privileges to the Department of Revenue for administration of such order.

Section 215.367. Compliance with Pre-Payment or Pre-Approval.

A. Business establishments that sell gasoline and/or diesel fuel shall require pre-payment or pre-approval of sales of fuel prior to activation or authorization of any fuel dispensing unit or fuel pumping device.

B. The City Clerk shall not renew the business license of any business which has failed to require pre-payment or pre-approval of sales of fuel prior to activation or authorization of any fuel dispensing unit or fuel pumping device which results in motorists filling their fuel tanks and driving off without paying.

Section 215.370. Receiving Stolen Property.

A. A person commits the offense of receiving stolen property if, for the purpose of depriving the owner of a lawful interest therein, he/she receives, retains or disposes of property of another knowing that it has been stolen or believing that it has been stolen.

B. Evidence of the following is admissible in any criminal prosecution pursuant to this Section to prove the requisite knowledge or belief of the alleged receiver that:

1. He/she was found in possession or control of other property stolen on separate occasions from two (2) or more persons;

2. He/she received other stolen property in another transaction within the year preceding the transaction charged;

3. He/she acquired the stolen property for a consideration which he/she knew was far below its reasonable value; or

4. He/she obtained control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce a person to believe the property was stolen.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.375. Financial Exploitation of The Elderly and Disabled.

A. A person commits the offense of financial exploitation of an elderly or disabled person if such person knowingly and by deception, intimidation or force obtains control over the elderly or disabled person's property with the intent to permanently deprive the elderly or disabled person of the use, benefit or possession of his/her property thereby benefiting such person or detrimentally

affecting the elderly or disabled person. Financial exploitation of an elderly or disabled person is a misdemeanor if the value of the property is less than fifty dollars ($50.00).

B. *Definitions.* As used in this Section, the following terms shall have these prescribed meanings:

DECEPTION

A misrepresentation or concealment of material fact relating to the terms of a contract or agreement entered into with the elderly or disabled person or to the existing or pre-existing condition of any of the property involved in such contract or agreement or the use or employment of any misrepresentation, false pretense or false promise in order to induce, encourage or solicit the elderly or disabled person to enter into a contract or agreement.

"Deception" includes:

1. Creating or confirming another person's impression which is false and which the offender does not believe to be true.
2. Failure to correct a false impression which the offender previously has created or confirmed.
3. Preventing another person from acquiring information pertinent to the disposition of the property involved.
4. Selling or otherwise transferring or encumbering property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid or is or is not a matter of official record.
5. Promising performance which the offender does not intend to perform or knows will not be performed. Failure to perform standing alone is not sufficient evidence to prove that the offender did not intend to perform.

DISABLED PERSON

A person with a mental, physical or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection.

ELDERLY PERSON

A person sixty (60) years of age or older.

INTIMIDATION

A threat of physical or emotional harm to an elderly or disabled person, or the communication to an elderly or disabled person that he/she will be deprived of food and nutrition, shelter, prescribed medication, or medical care and treatment.

C. Nothing in this Section shall be construed to limit the remedies available to the victim pursuant to any State law relating to domestic violence.

D. Nothing in this Section shall be construed to impose criminal liability on a person who has made a good faith effort to assist the elderly or disabled person in the management of his/her property, but through no fault of his/her own has been unable to provide such assistance.

E. Nothing in this Section shall limit the ability to engage in bona fide estate planning, to transfer property, and to otherwise seek to reduce estate and inheritance taxes; provided that such actions do

not adversely impact the standard of living to which the elderly or disabled person has become accustomed at the time of such actions.

F. It shall not be a defense to financial exploitation of an elderly or disabled person that the accused reasonably believed that the victim was not an elderly or disabled person.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.380. Fraudulent Use of A Credit or Debit Device.

A. A person commits the offense of fraudulent use of a credit device or debit device if the person uses a credit device or debit device for the purpose of obtaining services or property knowing that:

1. The device is stolen, fictitious or forged;
2. The device has been revoked or canceled;
3. For any other reason his/her use of the device is unauthorized; or
4. Uses a credit device or debit device for the purpose of paying property taxes and knowingly cancels said charges or payment without just cause. It shall be prima facie evidence of a violation of this Section if a person cancels said charges or payment after obtaining a property tax receipt to obtain license tags from the Missouri Department of Revenue.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.390. Deceptive Business Practice.

A. A person commits the offense of deceptive business practice if in the course of engaging in a business, occupation or profession he/she recklessly:

1. Uses or possesses for use a false weight or measure or any other device for falsely determining or recording any quality or quantity;
2. Sells, offers or exposes for sale or delivers less than the represented quantity of any commodity or service;
3. Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he/she furnishes the weight or measure;
4. Sells, offers or exposes for sale adulterated or mislabeled commodities; or
5. Makes a false or misleading written statement for the purpose of obtaining property or credit.

Section 215.400. Alteration or Removal of Item Numbers With Intent To Deprive Lawful Owner.

A. A person commits the offense of alteration or removal of item numbers if he/she with the purpose of depriving the owner of a lawful interest therein:

1. Destroys, removes, covers, conceals, alters, defaces or causes to be destroyed, removed, covered, concealed, altered or defaced the manufacturer's original serial number or other distinguishing owner applied number or mark on any item which bears a serial number attached by the manufacturer or distinguishing number or mark applied by the owner of the item for any reason whatsoever;

2. Sells, offers for sale, pawns or uses as security for a loan any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered or defaced; or

3. Buys, receives as security for a loan or in pawn, or in any manner receives or has in his/her possession any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered or defaced.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.410. Failure To Return Rented Personal Property — Enforcement Procedure — Penalty — Venue.

A. A person commits the offense of failing to return leased or rented property if, with the intent to deprive the owner thereof, he/she purposefully fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property. In addition, any person who has leased or rented personal property of another, who conceals the property from the owner or who otherwise sells, pawns, loans, abandons or gives away the leased or rented property is guilty of the offense of failing to return leased or rented property. The provisions of this Section shall apply to all forms of leasing and rental agreements including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this Section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.

B. It shall be prima facie evidence of the offense of failing to return leased or rented property when a person who has leased or rented personal property of another willfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner at the owner's place of business within ten (10) days after proper notice following the expiration of the lease or rental agreement, except that if the motor vehicle has not been returned within seventy-two (72) hours after the expiration of the lease or rental agreement, such failure to return the motor vehicle shall be prima facie evidence of the intent of the offense of failing to return leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within seventy-two (72) hours after the expiration of the lease or rental agreement, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle, and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate State and local computer system listing stolen motor vehicles. Any Law Enforcement Officer which stops such a motor vehicle may seize the motor vehicle and notify the lessor that he/she may recover such motor vehicle after it is photographed and its vehicle identification number is recorded for evidentiary purposes. Where the leased or rented property is not a motor vehicle, if such property has not been returned within the ten (10) day period prescribed in this Subsection, the owner of the property shall report the failure to return the property to the local law enforcement agency, and such law enforcement agency may within five (5) days notify the person who leased or rented the property that such person is in violation of this Section, and that failure to immediately return the property may subject such person to arrest for the violation.

C. This Section shall not apply if such personal property is a vehicle and such return is made more difficult or expensive by a defect in such vehicle which renders such vehicle inoperable if the lessee shall notify the lessor of the location of such vehicle and such defect before the expiration of the lease or rental agreement or within ten (10) days after proper notice.

D. Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to the lessee at the address given at the time of making the lease or rental agreement. The notice shall contain a statement that the failure to return the property may subject the lessee to criminal prosecution.

E. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner shall be guilty of property damage pursuant to Section 215.300 in addition to being in violation of this Section.

F. Venue shall lie in the County where the personal property was originally rented or leased.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.420. Passing Bad Checks.

A. A person commits the offense of passing a bad check when:

1. With purpose to defraud, the person makes, issues or passes a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money knowing that it will not be paid by the drawee or that there is no such drawee; or

2. The person makes, issues or passes a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money, knowing that there are insufficient funds in or on deposit with that account for the payment of such check, sight order or other form of presentment involving the transmission of account information in full and all other checks, sight orders or other forms of presentment involving the transmission of account information upon such funds then outstanding, or that there is no such account or no drawee and fails to pay the check or sight order or other form of presentment involving the transmission of account information within ten (10) days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

B. As used in Subparagraph (2) of Subsection (A) of this Section, *"actual notice in writing"* means notice of the non-payment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten (10) day period during which the instrument may be paid and that payment of the instrument within such ten (10) day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.425. Shoplifting — Detention of Suspect By Merchant — Liability Presumption.

A. *Definitions.* As used in this Section, the following definitions shall apply:

MERCANTILE ESTABLISHMENT

Any mercantile place of business in, at or from which goods, wares and merchandise are sold, offered for sale or delivered from and sold at retail or wholesale.

MERCHANDISE

All goods, wares and merchandise offered for sale or displayed by a merchant.

MERCHANT

Any corporation, partnership, association or person who is engaged in the business of selling goods, wares and merchandise in a mercantile establishment.

WRONGFUL TAKING

Includes stealing of merchandise or money and any other wrongful appropriation of merchandise or money.

B. Any merchant, his/her agent or employee, who has reasonable grounds or probable cause to believe that a person has committed or is committing a wrongful taking of merchandise or money from a mercantile establishment, may detain such person in a reasonable manner and for a reasonable length of time for the purpose of investigating whether there has been a wrongful taking of such merchandise or money. Any such reasonable detention shall not constitute an unlawful arrest or detention, nor shall it render the merchant, his/her agent or employee criminally or civilly liable to the person so detained.

C. Any person willfully concealing unpurchased merchandise of any mercantile establishment, either on the premises or outside the premises of such establishment, shall be presumed to have so concealed such merchandise with the intention of committing a wrongful taking of such merchandise within the meaning of Subsection (A), and the finding of such unpurchased merchandise concealed upon the person or among the belongings of such person shall be evidence of reasonable grounds and probable cause for the detention in a reasonable manner and for a reasonable length of time of such person by a merchant, his/her agent or employee in order that recovery of such merchandise may be effected, and any such reasonable detention shall not be deemed to be unlawful nor render such merchant, his/her agent or employee criminally or civilly liable.

Article VIII. Offenses Concerning Prostitution and Morals

Section 215.430. Article Definitions.

As used in this Article, the following terms mean:

PATRONIZING PROSTITUTION

A person patronizes prostitution if:

1. Pursuant to a prior understanding, he/she gives something of value to another person as compensation for that person or a third (3rd) person having engaged in sexual conduct with him/her or with another;

2. He/she gives or agrees to give something of value to another person on an understanding that in return therefor that person or a third (3rd) person will engage in sexual conduct with him/her or with another; or

3. He/she solicits or requests another person to engage in sexual conduct with him/her or with another, or to secure a third (3rd) person to engage in sexual conduct with him/her or with another, in return for something of value.

PROSTITUTION

A person commits prostitution if he/she engages or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by the person or by a third (3rd) person.

SEXUAL CONDUCT

Occurs when there is:

1. *Sexual intercourse.* Any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.

2. *Deviate sexual intercourse.* Any sexual act involving the genitals of one (1) person and the mouth, hand, tongue or anus of another person.

3. *Sexual contact.* Any touching, manual or otherwise, of the anus or genitals of one (1) person by another done for the purpose of arousing or gratifying sexual desire of either party.

SOMETHING OF VALUE

Money or property or any token, object or article exchangeable for money or property.

Section 215.440. Prostitution.

A person commits the offense of prostitution if the person performs an act of prostitution.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.450. Patronizing Prostitution.

A. A person commits the offense of patronizing prostitution if he/she patronizes prostitution.

B. It shall not be an affirmative defense that the defendant believed that the person he/she patronized for prostitution was eighteen (18) years of age or older.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.460. Prostitution and Patronizing Prostitution — Sex of Parties No Defense, When.

A. In any prosecution for prostitution or patronizing a prostitute, the sex of the two (2) parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

1. Both persons were of the same sex; or

2. The person who received, agreed to receive or solicited something of value was a male and the person who gave or agreed or offered to give something of value was a female.

Section 215.465. Prostitution Houses Deemed Public Nuisances.

A. Any room, building or other structure regularly used for sexual contact for pay as defined in Section 215.430 or any unlawful prostitution activity prohibited by this Article is a public nuisance.

B. The City Prosecuting Attorney may, in addition to all other sanctions, prosecute a suit in equity to enjoin the nuisance. If the court finds that the owner of the room, building or structure knew or had reason to believe that the premises were being used regularly for sexual contact for pay or unlawful prostitution activity, the court may order that the premises shall not be occupied or used for such period as the court may determine, not to exceed one (1) year.

C. All persons, including owners, lessees, officers, agents, inmates or employees, aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance, and they may be enjoined from engaging in any sexual contact for pay or unlawful prostitution activity anywhere within the jurisdiction of the court.

D. Appeals shall be allowed from the judgment of the court as in other civil actions.

Article IX. Sexual Offenses

Section 215.470. Article Definitions.

As used in this Article, the following terms shall have the meanings set forth herein:

DEVIATE SEXUAL INTERCOURSE

Any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

SEXUAL CONDUCT

Sexual intercourse, deviate sexual intercourse or sexual contact.

SEXUAL CONTACT

Any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person.

SEXUAL INTERCOURSE

Any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.

Section 215.475. Indecent Exposure (Sexual Misconduct).

A. A person commits the offense of indecent exposure (sexual misconduct) if such person:

1. Exposes his/her genitals under circumstances in which he/she knows that his/her conduct is likely to cause affront or alarm;

2. Has sexual contact in the presence of a third (3rd) person or persons under circumstances in which he/she knows that such conduct is likely to cause affront or alarm; or

3. Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third (3rd) person.

Section 215.477. Urinating or Defecating in Public Place.

It shall be unlawful for any person, male or female, to *urinate* or defecate in any public place not designated for such purposes.

Section 215.480. Sexual Misconduct — First Degree.

A person commits the offense of sexual misconduct in the first degree if such person purposely subjects another person to sexual contact without that person's consent.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.485. Certain Offenders Not To Be Present Within Five Hundred Feet of School Property, Exception — Permission Required For Parents or Guardians Who Are Offenders, Procedure.

A. A person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of Chapter 566, RSMo., or the provisions of Subsection (2) of Section 568.020, RSMo., Incest; Section 568.045, RSMo., Endangering The Welfare Of A Child In The 1st Degree; Subsection (2) of Section 568.080; RSMo., Use Of A Child In A Sexual Performance; Section 568.090, RSMo., Promoting A Sexual Performance By A Child; Section 573.023, RSMo., Sexual Exploitation Of A Minor; Section 573.025, RSMo., Promoting Child Pornography; or Section 573.040, RSMo., Furnishing Pornographic Material To Minors; shall not be present in or loiter within five hundred (500) feet of any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in Subsection (B) of this Section.

B. No parent, legal guardian, or custodian who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the offenses listed in Subsection (A) of this Section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity when persons under the age of eighteen (18) are present in the building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has permission to be present from the Superintendent or School Board or in the case of a private school from the Principal. In the case of a public school, if permission is granted, the Superintendent or School Board President must inform the Principal of the school where the sex offender will be present. Permission may be granted by the Superintendent, School Board, or in the case of a private school from the Principal for more than one (1) event at a time, such as a series of events, however, the parent, legal guardian, or custodian must obtain permission for any other event he/she wishes to attend for which he/she has not yet had permission granted.

Article X. Offenses Concerning Pornography

Section 215.490. Definitions.

When used in this Article, the following terms shall have the meanings set out herein:

FURNISH

To issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit or otherwise provide.

MATERIAL

Anything printed or written, or any picture, drawing, photograph, motion picture film, videotape or videotape production, or pictorial representation, or any recording or transcription, or any mechanical, chemical or electrical reproduction, or stored computer data, or anything which is or may be used as a means of communication. *"Material"* includes undeveloped photographs, molds, printing plates, stored computer data, and other latent representational objects.

MINOR

Any person under the age of eighteen (18).

NUDITY

The showing of post-pubertal human genitals or pubic area with less than a fully opaque covering.

OBSCENE

Any material or performance is obscene if, taken as a whole:

1. Applying contemporary community standards, its predominant appeal is to prurient interest in sex;
2. The average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and
3. A reasonable person would find the material lacks serious literary, artistic, political or scientific value.

PERFORMANCE

Any play, motion picture film, videotape, dance or exhibition performed before an audience of one (1) or more.

PORNOGRAPHIC FOR MINORS

Any material or performance is pornographic for minors if the following apply:

1. The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors;
2. The material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and
3. The material or performance, taken as a whole, lacks serious literary, artistic, political or scientific value for minors.

PROMOTE

To manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit or advertise, or to offer or agree to do the same, by any means including a computer.

SADOMASOCHISTIC ABUSE

Flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

SEXUAL CONDUCT

Actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

SEXUAL EXCITEMENT

The condition of human male or female genitals when in a state of sexual stimulation or arousal.

Section 215.500. Promoting Pornography For Minors or Obscenity.

A. A person commits the offense of promoting pornography for minors or obscenity if, knowing its content or character, he/she:

1. Promotes or possesses with the purpose to promote any obscene materials for pecuniary gain;
2. Produces, presents, directs or participates in any obscene performance for pecuniary gain;
3. Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain;
4. Produces, presents, directs or participates in any performance pornographic for minors for pecuniary gain; or
5. Promotes, possesses with the purpose to promote, produces, presents, directs or participates in any performance that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.510. Furnishing Pornographic Materials To Minors.

A. A person commits the offense of furnishing pornographic material to minors if, knowing its content and character, he/she:

1. Furnishes any material pornographic for minors knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor;
2. Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance; or

3. Furnishes, produces, presents, directs, participates in any performance or otherwise makes available material that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

Article XI. Offenses Concerning Alcohol and Drugs

Section 215.520. Possession of Marijuana or Synthetic Cannabinoid.

A. Except and only to the extent as authorized by Article XIV of the Missouri Constitution including any and all rules and regulations promulgated by the department relating to legalized medical marijuana or legalized adult use marijuana. it shall be unlawful for any person to knowingly use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack. store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance, or imitation controlled substance in violation of this article.

B. It shall be unlawful for any person to knowingly possess an imitation controlled substance.

C. No person shall knowingly possess a controlled substance, except and only to the extent as authorized by RSMo Ch. 579 or RSMo Ch. 195, as amended.

D. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this section, it shall not be necessary to include any exception, excuse, proviso, or exemption contained in: (i) this section, as amended, (ii) RSMo Ch. 579, as amended, or (iii) RSMo Ch. 195, as amended, and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

1. No person under the age of twenty-one (21) years shall knowingly possess marijuana except as provided by Article XIV of the Missouri Constitution.

2. A person at least twenty-one (21) years of age may not purchase, possess, consume, use, ingest, inhale, process, transport, deliver without consideration, or distribute without consideration except as permitted under Article XIV of the Missouri Constitution, as amended, over three ounces of dried, unprocessed marijuana, or its equivalent.

3. A person at least twenty-one (21) years of age may not possess, transport, plant, cultivate, harvest, dry, process, or manufacture more than six (6) flowering marijuana plants, six (6) non-flowering marijuana plants (over fourteen (14) inches tall), and six (6) clones (plants under fourteen (14) inches tall) in violation of Article XIV of the Missouri Constitution.

4. A person may not purchase, possess, use, deliver, distribute, manufacture, transfer, or sell to persons under twenty-one (21) years of age marijuana accessories, except as provided by Article XIV of the Missouri Constitution.

5. No person shall knowingly possess more than twice the amount of marijuana as authorized by Article XIV of the Missouri Constitution.

6. The following may possess marijuana pursuant to Article XIV of the Missouri Constitution and its accompanying State regulations:

a. qualifying patient for the patient's own personal use, provided that a qualifying patient shall not possess more than four (4) ounces of dried, unprocessed marijuana in a thirty (30) day period, unless such patient is able to possess more than such limits pursuant to 19 CSR 30-095.030{5)(E), as amended, in which case such person shall not possess more than amount of marijuana the person's two (2) physicians have certified the person to possess;

b. A primary caregiver for a qualifying patient(s). but only when transporting marijuana to a qualifying patient(s) or when accompanying: a qualifying patient(s); and

c. An owner or employee of a medical marijuana facility licensed by the State of Missouri while on the premises of said facility, or when transporting to a qualified patient's or primary caregiver's residence or another medical marijuana facility licensed by the State of Missouri.

d. An adult at least twenty-one (21) years of age.

7. In any complaint or information, and in any action or proceeding brought for the enforcement of any provision of any applicable statutory authority in the State of Missouri, it shall not be necessary to include any exception, excuse, proviso, or exemption of any applicable statutory authority in the State of Missouri, and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

8. Any person under the age of twenty-one (21) years old in possession of medical marijuana, including a marijuana-infused product, shall, immediately upon request of any law enforcement officer, produce a valid identification card issued by either the department or the respective equivalent identification card or authorization issued by another state or political subdivision of another state, authorizing the person to possess the amount of marijuana in such person's possession as provided by Article XIV of the Missouri Constitution, as amended. Any person who fails to produce such identification card as required by this section shall be guilty of the offense of failure to produce a medical marijuana identification card.

9. No person shall consume marijuana, including marijuana for medical use, in a public place. As used in this section only, "public place" means the same as the term defined by applicable Missouri Regulations, as amended, which is any public or private property, or portion of public or private property, that is open to the general public, including, but not limited to, sidewalks, streets, bridges, parks, schools, and businesses. However, for purposes of designating a nonpublic place within a public place, the owner or entity with control of any such property may, but is not required to, provide one (1) or more enclosed, private spaces where one (1) qualifying patient and, if required by the owner or entity with control of any such property, a representative of such owner or entity, may congregate for the qualifying patient to consume medical marijuana. The qualifying patient may be accompanied by the family of the qualifying patient, the qualifying patient's primary caregiver, and/or the qualifying patient's physician. The owner or entity with control of any such property may provide such a space by individual request or designate such a space for ongoing use and may limit use of medical marijuana in that space to uses that do not produce smoke. Any such permission shall be given in writing and provided to the qualifying patient or publicly posted prior to a qualifying patient's use of medical marijuana in that space. "Public place" shall not include

a. The residence of the person administering medical marijuana or the residence of another person when the person in control of that property has consented to the administering of marijuana: or

b. A licensed medical facility with the consent of the person or persons in charge of that facility.

10. It shall be unlawful for any person over the age of twenty-one (21) to have the plants and any marijuana in excess of three ounces:

    a. Kept at one private residence visible from a public place: or

    b. Kept in an unlocked space.

11. Consumption of adult use marijuana in public.

    a. No person shall consume adult use marijuana in a public place.

    b. As used in this section only, "public place" means the same as the term defined by applicable Missouri Regulation, as amended, which is any public or private property, or portion of public or private property, that is open to the general public, including, but not limited to, sidewalks, streets, bridges, parks, schools, and businesses. "Public place" shall not include:

        i. The residence of the person consuming adult use marijuana or the residence of another person when the person in control of that property has consented to the consumption of adult use marijuana; or

        ii. An area licensed by the authorities having jurisdiction over the licensing and/or permitting of said activity.

12. Except and only to the extent as authorized by Article XIV of the Missouri Constitution, as amended, including any and all rules and regulations promulgated by the department relating to legalized medical marijuana or legalized adult use marijuana, it shall be unlawful for any person under twenty-one (21) years of age to knowingly use, or possess with intent to use, marijuana accessories to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body marijuana, or imitation marijuana in violation of this article, other than medical marijuana as allowed under Article XIV of the Missouri Constitution.

13. The penalty for marijuana offenses shall be punishable as follows:

    a. A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place is subject to a civil penalty not exceeding two hundred and fifty dollars ($250.00) and forfeiture of the marijuana, as authorized under Article XIV of the Missouri Constitution, as amended.

    b. A person who cultivates marijuana plants that are not kept in a locked space is subject to a civil penalty not exceeding two hundred and fifty dollars ($250.00) and forfeiture of the marijuana, as authorized under Article XIV of the Missouri Constitution, as amended.

    c. A person who smokes marijuana in a public place is subject to a civil penalty not exceeding one hundred dollars ($100.00), as authorized under Article XIV of the Missouri Constitution, as amended.

d. A person who is under twenty-one (21) years of age who possesses, uses, ingests, inhales, transports, delivers or distributes marijuana, or possesses, delivers or distributes marijuana accessories is subject to a civil penalty not to exceed one hundred dollars ($100.00) and forfeiture of the marijuana. Any such person shall be provided the option of attending up to four (4) hours of drug education or counseling in lieu of the fine, as authorized under Article XIV of the Missouri Constitution, as amended.

E. A person who possesses or produces, delivers without receiving any consideration or remuneration, or possesses with intent to deliver not more than twice the amount of marijuana to a person who is at least twenty-one (21) years of age, as authorized under Article XIV of the Missouri Constitution, as amended:

i. For a first violation, is subject to a civil infraction punishable by a civil penalty not exceeding two hundred and fifty dollars ($250.00) and forfeiture of the marijuana.

ii. For a second violation. is subject to a civil infraction punishable be a civil penalty not exceeding five hundred dollars ($500.00) and forfeiture of the Marijuana:

iii. For a third or subsequent violation, is subject to a violation punishable by a fine not exceeding five hundred dollars ($500) and forfeiture of the marijuana; and,

iv. For a person under twenty-one (21) years of age is subject to a civil penalty not to exceed two hundred and fifty dollars ($250.00). Any such person shall be provided the option of attending up to eight (8) hours of drug education or counseling in lieu of the fine."

Section 215.525. User of Controlled Substance to Keep It in Container in Which Obtained.

A person to whom or for whose use any controlled substance in Schedule II as set out in Section 195.017 RSMo., has been prescribed, sold, or dispensed by a physician, dentist, podiatrist, or apothecary, or other person authorized under the provisions of Section 195.050 RSMo., and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him/her by the person selling or dispensing the same.

Section 215.530. Possession or Control of A Controlled Substance.

Except as authorized by Sections 195.005 to 195.425, RSMo., it is unlawful for any person to possess or have under his/her control a controlled substance as defined by Section 195.010, RSMo.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.532. Limit On Sale or Dispensing of Certain Drugs, Exceptions — Certain Products To Be Located Behind Pharmacy Counter.

A. The limits specified in Subsection (B) of this Section shall not apply to any quantity of such product, mixture or preparation dispensed pursuant to a valid prescription.

B. Within any thirty (30) day period, no person shall sell, dispense or otherwise provide to the same individual, and no person shall purchase, receive or otherwise acquire more than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine or pseudoephedrine or any of their salts or optical isomers, or salts of optical isomers, either as:

1. The sole active ingredient; or

2. One (1) of the active ingredients of a combination drug; or

3. A combination of any of the products specified in Subdivisions (1) and (2) of the Subsection; in any total amount greater than nine (9) grams.

C. All packages of any compound, mixture or preparation containing any detectable quantity of ephedrine or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, except those that are excluded from Schedule V in Subsection (17) or (18) of Section 195.017, RSMo., shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician under Section 195.017, RSMo.

D. This Section shall supersede and preempt any local ordinances or regulations, including any ordinances or regulations enacted by any political subdivision of the State. This Section shall not apply to any products that the State Department of Health and Senior Services, upon application of a manufacturer, exempts by rule from this Section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine or its salts or precursors or to the sale of any animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

E. Persons selling and dispensing substances containing any detectable amount of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall maintain logs, documents and records as specified in Section 195.017, RSMo. Persons selling only compounds, mixtures or preparations that are excluded from Schedule V in Subsection (17) or (18) of Section 195.017, RSMo., shall not be required to maintain such logs, documents and records. All logs, records, documents and electronic information maintained for the dispensing of these products shall be open for inspection and copying by Municipal, County, and State or Federal Law Enforcement Officers whose duty it is to enforce the controlled substances laws of this State or the United States.

F. Within thirty (30) days of the enactment of this Section, all persons who dispense or offer for sale, pseudoephedrine and ephedrine products, except those that are excluded from Schedule V in Subsection (17) or (18) of Section 195.017, RSMo., shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

G. Within thirty (30) days of the enactment of this Section, any business entity which sells ephedrine or pseudoephedrine products in the course of legitimate business which is in the possession of pseudoephedrine and ephedrine products, except those that are excluded from Schedule V in Subsection (17) or (18) of Section 195.017, RSMo., and which does not have a State and Federal Controlled Substances Registration, shall return these products to a manufacturer or distributor or transfer them to an authorized controlled substance registrant.

H. The provisions of Subsection (B) of this Section limiting individuals from purchasing the specified amount in any thirty (30) day period shall not apply to any compounds, mixtures or preparations that are in liquid or liquid-filled gel capsule form. However, no person shall purchase, receive or otherwise acquire more than nine (9) grams of any compound, mixture or preparation excluded in Subsection (17) or (18) of Section 195.017, RSMo., in a single purchase as provided in Subsection (B) of this Section.

Section 215.535. Limitations On The Retail Sale of Methamphetamine Precursor Drugs.

A. The retail sale of methamphetamine precursor drugs shall be limited to:

1. Sales in packages containing not more than a total of three (3) grams of one (1) or more methamphetamine precursor drugs calculated in terms of ephedrine base, pseudoephedrine base and phenylpropanolamine base; and

2. For non-liquid products, sales in blister packs, each blister containing not more than two (2) dosage units, or where the use of blister packs is technically infeasible, sales in unit dose packets or pouches.

B. Any person holding a retail sales license pursuant to Chapter 144, RSMo., who knowingly violates Subsection (A) of this Section is guilty of a misdemeanor.

C. Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine or phenylpropanolamine products are available for sale who violates Subsection (A) of this Section shall not be penalized pursuant to this Section if such person documents that an employee training program was in place to provide the employee with information on the State and Federal regulations regarding ephedrine, pseudoephedrine or phenylpropanolamine.

Section 215.540. Unlawful Use of Drug Paraphernalia.

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia as defined by Section 195.010, RSMo., to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance as defined by Section 195.010, RSMo., or an imitation controlled substance as defined by Section 195.010, RSMo., in violation of Sections 195.005 to 195.425, RSMo.

Note—Under certain circumstances this offense can be a felony under state law.

Section 215.550. Inhalation or Inducing Others To Inhale Solvent Fumes To Cause Certain Reactions, Prohibited — Exceptions.

No person shall intentionally smell or inhale the fumes of any solvent, particularly toluol, or induce any other person to do so for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual or mental processes; except that this Section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

Section 215.560. Inducing, or Possession With Intent To Induce, Symptoms By Use of Solvents, Prohibited.

A. No person shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system, distortion of audio, visual or mental processes by the use of any solvent, particularly toluol.

B. No person shall intentionally possess any solvent, particularly toluol, for the purpose of using it in the manner prohibited by Section 215.550 and this Section.

Section 215.570. Possession or Purchase of Solvents To Aid Others in Violations, Prohibited — Violations of Sections 215.550 To 215.560 — Penalty.

A. No person shall intentionally possess or buy any solvent, particularly toluol, for the purpose of inducing or aiding any other person to violate the provisions of Sections 215.550 and 215.560 hereof.

B. Any person who violates any provision of Sections 215.550—215.570 is guilty of an ordinance violation.

Section 215.575. Detention of Intoxicated Persons – Safekeep.

A. A person who appears to be incapacitated or intoxicated may be taken by a police officer to the person's residence, to any available treatment service, or to any appropriate local facility which may be necessary, including a jail, for custody not to exceed twelve (12) hours.

B. Any officer detaining such person shall be immune from prosecution for false arrest and shall not be responsible in damages for taking action pursuant to subsection (c)(1) of this section if the officer has reasonable grounds to believe that the person is incapacitated or intoxicated by alcohol and does not use unreasonable, excessive force to detain such person.

C. Such immunity from prosecution includes the taking of reasonable action to protect himself from harm by the intoxicated or incapacitated person.

Article XII. Offenses Concerning Minors

Section 215.580. Definitions.

For the purposes of this Article, the following words and phrases are defined as follows:

ALCOHOL

Alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent by volume.

GUARDIAN

Guardian appointed by court of competent jurisdiction.

MINOR

Any person under the age of seventeen (17). Minor may also be used for individuals under the legal state drinking age of twenty-one (21) for the purposes of this section.

PARENT

The natural or adoptive father or mother, legal guardian or any other person having the care or custody of a minor child.

PARENTAL NEGLECT

Any act or omission by which a parent fails to exercise customary and effective control over a minor so as to contribute to, cause or tend to cause a minor to commit any offense.

POSSESS

To purchases or attempt to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020 RSMo or who is visibly intoxicated as defined in section 577.001, RSMo, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood.

Section 215.590. Curfew For Minors Under Seventeen — Where and When Effective — Exceptions — Prima Facie Evidence of Violation.

A. It shall be unlawful for any person under the age of seventeen (17) years to be or to remain in or upon any of the streets, alleys or public places in the City at night after the hours of 11:00 P.M. Sunday through Thursday and after 12:00 Midnight on Friday and Saturday nights and State legal holiday nights, unless such person is accompanied by a parent, guardian or other adult person responsible for or having legal custody over such minor person, or unless such minor's gainful employment makes it necessary for such minor to be upon the street, alley or other public place after the specified hours, or unless such minor is on an emergency errand sanctioned by the parents, guardian or other adult person responsible for having legal custody of such minor.

B. The fact that a minor under seventeen (17) years, unaccompanied by a parent, guardian or other adult person responsible for or having the legal custody of such minor, is found upon any street, alley or other public place after the specified hours as set forth in this Section shall be prima facie evidence of violation of this Section.

C. It shall be unlawful for any parent, guardian or other adult person responsible for having the legal custody, care or control of any person under the age of seventeen (17) years to allow, permit or suffer such minor to violate the provisions of this Section.

D. It shall be unlawful for any person operating or in charge of any place of amusement, entertainment, refreshment or other place of business to permit any minor under the age of seventeen (17) years to be and remain in such place or on the premises after the hours specified in Subsection (A). When such owner, operator or person in charge of such place of business shall find any such minor on the premises, he/she shall order him/her to leave and if such minor refuses to leave, the owner or operator shall notify the Police Department and inform them of such violation.

Section 215.600. Parental Responsibility.

A. Whenever a minor shall be arrested or detained for the commission of any offense within the City, the Police Department shall, as soon as possible thereafter, deliver written notice to the minor's parent of the arrest or detention, and such notice shall advise the parent of his/her responsibility under this Section. The notice shall be in such a form as to be signed by the notified parent signifying receipt thereof. If the parent refuses to sign said notice, the notifying Law Enforcement Officer shall indicate such refusal on the notice.

B. No parent shall fail to exercise customary and effective control over a minor so as to contribute to, cause or tend to cause a minor to commit any offense. Written parental notice as defined in Subsection (A) of this Section shall be prima facie evidence of parental neglect if the minor commits a second (2nd) or successive violation of any offense.

C. Each violation of the provisions of this Section shall constitute a separate offense. Any person who shall violate this Section shall be subject to imprisonment for not more than ninety (90) days and/or a fine of not less than one hundred dollars ($100.00) for the first (1st) violation, not less than

two hundred dollars ($200.00) for a second (2nd) violation, and not less than five hundred dollars ($500.00) for any successive violation. In addition, the court may, as a condition of any probation granted to any parent found guilty of violating Subsection (B) of this Section, order the defendant to make restitution to any person who has been damaged by the misconduct of the minor in an amount not to exceed two thousand dollars ($2,000.00).

Section 215.605. Minor in Possession of Alcohol.

A. No person less than twenty-one (21) years of age shall purchase, attempt to purchase or possess alcohol within the City of Carterville. Any person less than twenty-one (21) years of age shall not misrepresent his/her age to purchase alcohol or alcoholic products.

For purposes of determining violations and prosecutions of any provision of this chapter, or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

B. The person is guilty of an infraction and will have the alcohol confiscated and may require Municipal Court appearance. The Municipal Judge in accordance with state law shall set all penalties and fines.

C. *Expungement of Record.*

After a period of not less than one year, or upon reaching the age of twenty-one, whichever occurs first, a person who has pleaded guilty to or has been found guilty of violating section 311.325 RSMo for the first time, and who since such conviction has not been convicted of any other alcohol-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such person has not been convicted of any other alcohol-related offense at the time of the application for expungement, and the person has had no other alcohol-related enforcement contacts, as defined in section 302.525, the court shall enter an order of expungement. The effect of such an order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever. A person shall be entitled to only one expungement pursuant to this section. Nothing contained in this section shall prevent courts or other state officials from maintaining such records as are necessary to ensure that an individual receives only one expungement pursuant to this section.

D. *Appearance of Tickets*

The Chief of Police and local law enforcement are hereby authorized to issue appearance tickets for violation of this Ordinance.

Article XIII. Offenses Concerning Tobacco

Section 215.610. Definitions.

For purposes of this Article, the following definitions shall apply:

DISTRIBUTE A conveyance to the public by sale, barter, gift or sample.

MINOR A person under the age of twenty-one (21).

PROOF OF AGE A driver's license or other generally accepted means of identification that contains a picture of the individual and appears on its face to be valid.

ROLLING PAPERS Paper designed, manufactured, marketed or sold for use primarily as a wrapping or enclosure for tobacco which enables a person to roll loose tobacco into a smokeable cigarette.

SAMPLE A tobacco product distributed to members of the general public at no cost or at nominal cost for product promotional purposes.

SAMPLING The distribution to members of the general public of tobacco product samples.

TOBACCO/NICOTINE PRODUCTS Any substance containing tobacco leaf and/or nicotine, including, but not limited to, cigarettes, E cigarettes, cigars, and other smoking tobacco, snuff, plug cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a pipe or otherwise, or both for chewing and smoking.

VENDING MACHINE

Any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products.

Section 215.620. Unlawful To Sell or Distribute Tobacco Products To Minors — Vending Machine Requirements.

A. It shall be unlawful for any person to sell, provide or distribute tobacco/nicotine products to persons under twenty-one (21) years of age.

B. All vending machines that dispense tobacco/nicotine products shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than twenty-one (21) years of age from purchasing any product from such machine or shall be equipped with a lock-out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. A locking device shall not be required on machines that are located in areas where persons less than twenty-one (21) years of age are not permitted or prohibited by law. An owner of an establishment whose vending machine is not in compliance with the provisions of this Subsection shall be subject to the penalties contained in Subsection (E) of this Section. A determination of noncompliance may be made by a local law enforcement agency or the Division of Alcohol and Tobacco Control. Nothing in this Section shall apply to a vending machine if located in a factory, private club or other location not generally accessible to the general public.

C. No person or entity shall sell, provide or distribute any tobacco/nicotine product or rolling papers to any minor or sell any individual cigarettes to any person in this State. This Subsection shall not apply to the distribution by family members on property that is not open to the public.

D. Any person, including, but not limited to, a sales clerk, owner or operator, who violates Subsections (A), (B) or (C) of this Section or Section 215.650 of this Article shall be penalized as follows:

1. For the first (1st) offense, twenty-five dollars ($25.00);

2. For the second (2nd) offense, one hundred dollars ($100.00); and

3. For a third (3rd) and subsequent offense, two hundred fifty dollars ($250.00).

E. Any owner of the establishment where tobacco/nicotine products are available for sale who violates Subsection (C) of this Section shall not be penalized pursuant to this Section if such person documents the following:

1. An in-house or other tobacco compliance employee training program was in place to provide the employee with information on the State and Federal regulations regarding sales to minors. Such training program must be attended by all employees who sell tobacco/nicotine products to the general public;

2. A signed statement by the employee stating that the employee has been trained and understands the State laws and Federal regulations regarding the sale of tobacco to minors; and

3. Such in-house or other tobacco compliance training meets the minimum training criteria, which shall not exceed a total of ninety (90) minutes in length, established by the Division of Alcohol and Tobacco Control.

F. The exemption in Subsection (E) of this Section shall not apply to any person who is considered the general owner or operator of the outlet where tobacco products are available for sale if:

1. Four (4) or more violations per location of Subsection (C) of this Section occur within a one (1) year period; or

2. Such person knowingly violates or knowingly allows his/her employees to violate Subsection (C) of this Section.

G. If a sale is made by an employee of the owner of an establishment in violation of this Article, the employee shall be guilty of an offense established in Subsections (A), (B) and (C) of this Section. If a vending machine is in violation of Section 215.650, the owner of the establishment shall be guilty of an offense established in Subsections (C) and (D) of this Section. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense established in Subsections (C) and (D) of this Section.

H. A person cited for selling, providing or distributing any tobacco/nicotine product to any individual less than twenty-one (21) years of age in violation of Subsections (A), (B) or (C) of this Section shall conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that:

1. Such individual presented a driver's license or other government-issued photo identification purporting to establish that such individual was twenty-one (21) years of age or older.

I. Any person adversely affected by this Section may file an appeal with the Administrative Hearing Commission which shall be adjudicated pursuant to the procedures established in Chapter 621, RSMo.

Section 215.630. Minors Prohibited From Purchase or Possession of Tobacco/Nicotine — Misrepresentation of Age.

A. No person less than twenty-one (21) years of age shall purchase, attempt to purchase or possess cigarettes or other tobacco/nicotine products unless such person is an employee of a seller of cigarettes or tobacco products and is in such possession to affect a sale in the course of employment or an employee of the Division of Alcohol and Tobacco Control for enforcement purposes pursuant to Subsection (5) of Section 407.934, RSMo.

B. Any person less than twenty-one (21) years of age shall not misrepresent his/her age to purchase cigarettes or tobacco/nicotine products.

C. Any person who violates the provisions of this Section shall be penalized as follows:

1. For the first (1st) violation, the person is guilty of an infraction and shall have any cigarettes or tobacco products confiscated;

2. For a second (2nd) violation and any subsequent violations, the person is guilty of an infraction, shall have any cigarettes or tobacco/nicotine products confiscated and shall complete a tobacco education or smoking cessation program, if available.

Section 215.640. Retail Sales Tax License Required For Sale of Tobacco Products.

No person shall sell cigarettes or tobacco products unless the person has a retail sales tax license.

Section 215.650. Required Sign Stating Violation of State Law To Sell Tobacco To Minors Under Age Twenty-One — Display of Sign Required Where.

A. The owner of an establishment at which tobacco products or rolling papers are sold at retail or through vending machines shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products are sold and on every vending machine where tobacco products are purchased a sign that shall:

1. Contain in red lettering at least one-half (½) inch high on a white background the following:

"IT IS A VIOLATION OF STATE LAW FOR CIGARETTES OR OTHER TOBACCO PRODUCTS TO BE SOLD OR OTHERWISE PROVIDED TO ANY PERSON UNDER THE AGE OF TWENTY-ONE OR FOR SUCH PERSON TO PURCHASE, ATTEMPT TO PURCHASE OR POSSESS CIGARETTES OR OTHER TOBACCO PRODUCTS"; and

2. Include a depiction of a pack of cigarettes at least two (2) inches high defaced by a red diagonal diameter of a surrounding red circle and the words "Under 21".

Section 215.660. Restrictions On Sales of Individual Packs of Cigarettes.

A. No person or entity shall sell individual packs of cigarettes or smokeless tobacco products unless such packs satisfy one (1) of the following conditions prior to the time of sale:

1. It is sold through a vending machine; or

2. It is displayed behind the checkout counter or it is within the unobstructed line of sight of the sales clerk or store attendant from the checkout counter.

Section 215.670. Proof of Age Required, When Defense To Action For Violation Is Reasonable Reliance On Proof — Liability.

A. A person or entity selling tobacco products or rolling papers or distributing tobacco product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of twenty-one (21).

B. The operator's or chauffeur's license issued pursuant to the provisions of Section 302.177, RSMo., or the operator's or chauffeur's license issued pursuant to the laws of any State or possession of the United States to residents of those States or possessions, or an identification card as provided for in Section 302.181, RSMo., or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any agent of the Division of Alcohol and Tobacco Control or any owner or employee of an establishment that sells tobacco for the purpose of aiding the registrant, agent or employee to determine whether or not the person is at least twenty-one (21) years of age when such person desires to purchase or possess tobacco products procured from a registrant. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

C. Any person who shall, without authorization from the Department of Revenue, reproduce, alter, modify or misrepresent any chauffeur's license, motor vehicle operator's license or identification card shall be deemed guilty of a misdemeanor.

D. Reasonable reliance on proof of age or on the appearance of the purchaser or recipient shall be a defense to any action for a violation of Subsections (A), (B) and (C) of Section 215.620 of this Article. No person shall be liable for more than one (1) violation of Subsections (B) and (C) of Section 215.620 on any single day.

Article XIV. Anti-Litter Provisions

Section 215.680. Short Title.

This Article shall be known and may be cited as the "Anti-Litter Ordinance".

Section 215.685. Definitions.

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

AIRCRAFT

Any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word *"aircraft"* shall include helicopters and lighter-than-air dirigibles and balloons.

AUTHORIZED PRIVATE RECEPTACLE

A litter storage and collection receptacle.

COMMERCIAL HANDBILL

Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature:

1. Which advertises for sale any merchandise, product, commodity or thing; or
2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
3. Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind when either thereof is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order, provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license where such license is or may be required by any law of this State or under any provision of this Code or other ordinance of this City; or
4. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

LITTER

Garbage, refuse, rubbish and all other waste material which, if thrown or deposited as in this Article prohibited, tends to create a danger to public health, safety or welfare.

NEWSPAPER

Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with Federal Statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, the term *"newspaper"* shall mean and include any periodical or current magazine regularly published with not less than four (4) issues per year and sold to the public.

NON-COMMERCIAL HANDBILL

Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

PARK

A park, reservation, playground, beach, recreation center or any other public area in the City owned or used by the City and devoted to active or passive recreation.

PRIVATE PREMISES

Any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, but not including any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PREMISES

Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

VEHICLE

Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

Section 215.690. Litter in Public Places.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the City except in public receptacles, in authorized private receptacles for collection or in official City dumps.

Section 215.695. Manner of Placing Litter in Receptacles.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

Section 215.700. Sweeping Litter Into Gutters, Etc., Prohibited — Duty of Property Occupants To Keep Sidewalks Tidy.

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.

Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

Section 215.705. Merchants, Etc., Not To Litter Streets, Etc., and Must Keep Sidewalks Tidy.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalks and other areas in front of their business premises or on their parking spaces free of litter.

Section 215.710. Persons in Vehicles Not To Deposit Litter On Streets, Etc.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City or upon private property.

Section 215.715. Construction, Loading and Operation of Vehicles To Prevent Littering — Vehicles Not To Track Mud, Etc., Upon Streets.

No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed and loaded as to prevent any load, cargo or litter from being blown or deposited upon

any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley or other public place mud, dirt, sticky substances, litter or foreign matter of any kind.

Section 215.720. Litter in Parks.

No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided in this Article.

Section 215.725. Litter in Fountains, Ponds and Other Bodies of Water.

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the City.

Section 215.730. Throwing or Distributing Handbills in Public Places.

No person shall throw or deposit any commercial or non-commercial handbill in or upon any sidewalk, street or other public place within the City. Nor shall any person hand out or distribute or sell any commercial handbill in any public place, provided that it shall not be unlawful on any sidewalk, street or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

Section 215.735. Placing Handbills On or in Vehicles.

No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle, provided that it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

Section 215.740. Distribution of Handbills On Private Premises — Occupant May Prohibit, Orally or By Sign.

No person shall throw, deposit or distribute any commercial or non-commercial handbill upon any private premises if requested by anyone thereon not to do so or if there is placed on such premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing", "No Peddlers or Agents", "No Advertisement" or any similar notice indicating in any manner that the occupants of such premises do not desire to be molested or have their right of privacy disturbed or to have any such handbills left upon such premises.

Section 215.745. Handbills — Prohibited On Unoccupied Property.

No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

Section 215.750. Handbills — Manner of Making Authorized Distribution — Mail — Newspapers.

A. No person shall throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises; provided, that in case of inhabited private premises which are not posted, as provided in Section

215.740, the handbill distributor, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places and except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.

B. The provisions of this Section shall not apply to the distribution of mail nor to newspapers except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

Section 215.755. Litter On Occupied Private Property.

No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

Section 215.760. Duty of Property Owners and Occupants To Maintain Tidy Premises.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

Section 215.765. Litter On Vacant Lots — Dropping Objects From Aircraft Prohibited.

No person shall throw or deposit litter on any open or vacant property within the City whether owned by such person or not. No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object.

Section 215.770. Procedure For City To Clear Litter From Open Private Property At Expense of Property Owner.

A. *Notice To Remove.* The Code Enforcement Officer, Chief of Police or any Police Officer is hereby authorized to notify the owner of any open or vacant private property within the City or the agent of such owner to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered or certified mail, addressed to such owner or agent at his/her last known address.

B. *Action Upon Non-Compliance.* Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter dangerous to the public health, safety or welfare within fourteen (14) days after receipt of written notice provided for in Subsection (A) above, or within fourteen (14) days after the date of such notice in the event it is returned to the City by the post office because of inability to make delivery thereof and if the notice was properly addressed to the last known address of such owner or agent, the Code Enforcement Officer, Chief of Police or any Police Officer is hereby authorized to pay for the disposing of such litter or to order its disposal by the City.

C. *Charge.* When the City has affected the removal of such litter or has paid for its removal, the cost thereof shall be charged to the owner of such property by bill forwarded to such owner by the City and such charge shall be due and payable by such owner within fifteen (15) days.

D. *Recorded Lien.* Where the full amount due the City is not paid by such owner within fifteen (15) days after invoice for removal of such litter as provided for in Subsections (A) and (B) above, then and in that case, the Code Enforcement Officer, Chief of Police or any Police Officer shall cause to be recorded with the City Clerk a sworn statement showing the cost and expense incurred for the work, the date the work was done, and the location of the property on which such work was done. The City Clerk shall cause a lien to be recorded upon such property as prescribed by law.

Chapter 220. Nuisances

Cross References—As to dangerous buildings as a nuisance, ch.510; as to prostitution houses deemed a nuisance, §215.465.

Article I. In General

Section 220.010. Nuisances Affecting Health.

The following are declared to be nuisances affecting health:

1. All decayed or unwholesome food offered for sale to the public or offered to the public at no charge.
2. All diseased animals running at large.
3. All ponds or pools of stagnant water.
4. Carcasses of dead animals not buried or destroyed within twenty-four (24) hours after death.
5. Accumulations, wheresoever they may occur, of manure, rubbish, garbage, refuse and human and industrial, noxious or offensive waste, except the normal storage on a farm of manure for agricultural purposes.
6. Garbage cans which are not fly-tight, that is, garbage cans which do not prevent the entry of flies, insects and rodents.
7. The pollution of any well, cistern, spring, underground water, stream, lake, canal or body of water by sewage or industrial wastes, or other substances harmful to human beings.
8. Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities, or the presence of any gas, vapor, fume, smoke, dust or any other toxic substance on, in or emitted from the equipment of any premises in quantities sufficient to be toxic, harmful or injurious to the health of any employee or to any premises, occupant or to any other person.
9. Common drinking cups, roller towels, combs, brushes or eating utensils in public or semi-public places where not properly sanitized after use.
10. Any vehicle used for septic tank cleaning which does not meet the requirements of this Chapter of the Code of Ordinances of the City of Carterville.
11. Any vehicle used for garbage or rubbish disposal which is not equipped with a watertight metal body and provided with a tight metal cover or covers and so constructed as to prevent any of the contents from leaking, spilling, falling or blowing out of such vehicle at any time, except

while being loaded, or not completely secured and covered so as to prevent offensive odors from escaping therefrom or exposing any part of the contents at any time.

12. Any and all infestations of flies, fleas, roaches, lice, ticks, rats, mice, fly maggots, mosquito larvae and hookworm larvae.

13. The keeping of animals and fowls in any area within the City not zoned for agricultural uses except pet cats and dogs, animals in public or licensed zoos, and farm animals in laboratories.

14. Unlicensed dumps and licensed dumps not operated or maintained in compliance with the ordinances of the City of Carterville and the Statutes of the State of Missouri.

15. Discharging or causing to be discharged into a stormwater system, any waste materials, liquids, vapor, fat, gasoline, benzene, naphtha, oil or petroleum product, mud, straw, lawn clippings, tree limbs or branches, metal or plastic objects, rags, garbage or any other substance which is capable of causing an obstruction to the flow of the storm system or interfere with the proper operation of the system or which will pollute the natural creeks or waterways.

16. All other acts, practices, conduct, business, occupation callings, trades, uses of property and all other things detrimental or certain to be detrimental to the health of the inhabitants of the City of Carterville.

Section 220.020. Unlawful to Cause, Maintain Within City or One-Half Mile Thereof.

It is unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any occupied lot or land or any part thereof in the City of Carterville or within one-half (½) mile of the corporate limits of the City of Carterville, Missouri, to cause, permit or maintain a nuisance on any such lot or land. Additionally, it is unlawful for any person or his/her agent, servant, representative or employee to cause or maintain a nuisance on the land or property of another with or without permission. Each day that a nuisance shall be maintained is a separate offense.

Section 220.030. Authority to Abate Emergency Cases.

In cases where it reasonably appears that there is an immediate danger to the health, safety or welfare of the public due to the existence of a nuisance, the City shall have authority to immediately abate the nuisance in an appropriate manner.

Section 220.040. Abatement—Procedure Generally.

Whenever the City receives notification that a nuisance may exist, it shall proceed as follows, except as may be otherwise provided herein:

1. If after determining that a nuisance exists, the Code Enforcement Officer or Chief of Police or other City Official shall order the person to abate the nuisance within fourteen (14) days or within such other time as the Council may deem reasonable. The order may further provide that the appropriate City Official be directed to abate the nuisance if the order is not obeyed within the time period set forth herein or the time period set by the Council, and that a special tax bill be issued for the costs of abating the nuisance.

2. If the order has not been obeyed within the time period set by the Council, the appropriate City Official shall proceed to abate the nuisance in the manner provided by law, and the cost of same assessed as a special tax against the property so improved or upon which such work was done; and, if so ordered, the City Clerk shall cause a special tax bill therefor against the owner thereof when known, and if not known then against the unknown persons, and the certified bills of such assessment shall describe therein the property upon which the work was done.

3.The cost of abating nuisances on private property shall be levied and assessed on each lot in proportion to the amount of work done and material used in abating the nuisance located on each such lot in addition to a base rate of two-hundred and fifty dollars ($250.00) per lot.

Article II. Abandoned Property

Section 220.050. Definitions.

As used in this Article, the following terms shall have the meanings set out herein:

ABANDONED PROPERTY

Any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel removed or subject to removal from public or private property as provided in this Article, whether or not operational. For any vehicle towed from the scene of an accident at the request of law enforcement and not retrieved by the vehicle's owner within five (5) days of the accident, the agency requesting the tow shall be required to write an abandoned property report or a criminal inquiry and inspection report.

PERSON

Any natural person, corporation or other legal entity.

RIGHT-OF-WAY

The entire width of land between the boundary lines of a public road or State highway, including any roadway.

ROADWAY

That portion of a public road or State highway ordinarily used for vehicular travel, exclusive of the berm or shoulder.

TOWING COMPANY

Any person or entity which tows, removes or stores abandoned property.

URBANIZED AREA

An area with a population of fifty thousand (50,000) or more designated by the Bureau of the Census within boundaries to be fixed by the State Highways and Transportation Commission and local officials in cooperation with each other and approved by the Secretary of Transportation. The boundary of an urbanized area shall, at a minimum, encompass the entire urbanized area as designed by the Bureau of the Census.

Section 220.060. Abandoned Vehicles or Trailers Prohibited.

No person shall abandon any motor vehicle or trailer on the right-of-way of any public road or State highway.

Section 220.070. Obstructing The Flow of Traffic Prohibited.

Except in the case of an accident resulting in the injury or death of any person, the driver of a vehicle which for any reason obstructs the regular flow of traffic on the roadway of any public road or State highway shall make every reasonable effort to move the vehicle or have it moved so as not to block the regular flow of traffic. Any person who fails to comply with the requirements of this Section is guilty of an ordinance violation.

Section 220.080. Towing of Abandoned Property On Public Real Property.

A. Any Law Enforcement Officer, or an official of the City where the City's real property is concerned, may authorize a towing company to remove to a place of safety:

1. Any abandoned property on the right-of-way of:

   a. Any interstate highway or freeway in an urbanized area of the City left unattended for ten (10) hours, or immediately if a Law Enforcement Officer determines that the abandoned property is a serious hazard to other motorists;

   b. Any interstate highway or freeway outside of an urbanized area of the City left unattended for forty-eight (48) hours, or after four (4) hours if a Law Enforcement Officer determines that the abandoned property is a serious hazard to other motorists;

   c. Any State highway other than an interstate highway or freeway outside of an urbanized area, left unattended for more than forty-eight (48) hours provided that commercial motor vehicles referred to in Subsections (a—c) not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this Section to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice; or

   d. Any State highway other than an interstate highway or freeway in an urbanized area, left unattended for more than ten (10) hours.

2. Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal.

3. Any abandoned property which has been abandoned under Section 220.030 herein or Section 577.080, RSMo.

4. Any abandoned property which has been reported as stolen or taken without consent of the owner.

5. Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal.

6. Any abandoned property which due to any other State law or City ordinance is subject to towing because of the owner's outstanding traffic or parking violations.

7. Any abandoned property left unattended in violation of a State law or City ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard.

B. When the City Police Department authorizes a tow pursuant to this Section in which the abandoned property is moved from the immediate vicinity, it shall complete a crime inquiry and inspection report.

C. Any City agency other than the City Police Department authorizing a tow under this Section where property is towed away from the immediate vicinity shall report the tow to the City Police Department within two (2) hours of the tow, along with a crime inquiry and inspection report.

Section 220.090. Maximum Parking Limit — Unattended or Abandoned Cars.

A. *Definitions.* The following terms, as used in this Section, shall have the meanings indicated:

ABANDONED MOTOR VEHICLE

Any motor vehicle which has been abandoned in any one (1) of the following places, to wit:

a. Upon any street, alley or other public property located within the City.

b. In or upon the banks of any lake, stream or pond located within the City.

c. Upon any private real property owned by another without the consent of such owner.

NUISANCE MOTOR VEHICLE

Any vehicle which is incapable of traveling under its own power upon the public streets because of mechanical, structural or other similar failures or defects, or which is not registered, or which is improperly registered, or which does not display a valid license and current inspection certificate, if such are required by the State in which the vehicle is registered in order to operate the vehicle upon public streets, except those vehicles which are on the premises of a duly licensed automobile repair or sales business, or in a duly licensed automobile junking yard.

UNATTENDED MOTOR VEHICLE

A. An unoccupied motor vehicle located upon any street, alley or other public property within the City which has not, prior to becoming unoccupied, first had its motor stopped, and the electric current therein cut off.

B. All unattended, abandoned or nuisance motor vehicles are hereby declared to be public nuisances, and such nuisances shall be abated and prosecuted as hereinafter set forth.

C. *Other Violations.* In addition to those vehicles declared to be public nuisances pursuant to Subsections (A) and (B) of this Section, no person owning or in charge of a vehicle shall park such vehicle on any public street:

1. For more than fourteen (14) continuous days without operating the vehicle;

2. Without a State vehicle license;

3. When such vehicle is so disabled or in such state of disrepair that it is immobilized;

4. So as to constitute an obstruction or potential obstruction to other vehicles upon such street;

5. Or when the owner, operator or other person in charge thereof is so incapacitated as to be unable to remove such vehicle or is taken into custody by the Police and the vehicle would be left unattended thereby. Any vehicle in violation of a prohibition set forth in this Subsection (C) shall be considered a nuisance vehicle.

D. *Commencement Of Proceedings.* After complaint that an unattended, abandoned or nuisance motor vehicle exists, the owner or custodian thereof may be summoned to appear in Municipal Court.

E. *Summary Abatement.* If the owner or custodian of an unattended, abandoned or nuisance motor vehicle cannot be located, then a notice shall be posted upon such motor vehicle stating that such nuisance shall be abated within two (2) days if such vehicle is located upon public property and within ten (10) days if such vehicle is located upon private property. Upon the expiration of such period of time as is appropriate, the unattended, abandoned or nuisance motor vehicle shall be removed from its then current location and disposed of as hereinafter set forth. If, prior to abatement or disposition by sale, the owner or custodian previously unlocatable should then be located, proceedings shall thereafter be immediately commenced and proceed in accordance with Subsection (D) above.

F. *Proceedings.* Upon a guilty plea or after trial and a finding of guilty in a proceeding commenced pursuant to Subsection (D) above, the Municipal Judge shall assess the punishment as provided for by Subsection (K) below and shall order the abatement of the public nuisance found to exist.

G. *Seizure And Notice Thereof.* After expiration of the period of time provided by Subsection (E) above or after an order of abatement issued pursuant to Subsection (F) above, the Code Enforcement Officer, the Chief of Police, or his/her designated representative shall abate the public nuisance by seizing the motor vehicle creating such nuisance and removing it to a storage location for subsequent redemption or sale. Upon seizure of such motor vehicle, notice of seizure shall be given to the owner thereof and the holder of any security interest secured by said motor vehicle at the last known address of each as is indicated by the records of the Missouri Department of Revenue. Such notice shall be in writing, be dispatched by certified mail with return receipt requested, and shall include the following information:

1. A description of the motor vehicle.

2. Any identifying marks or numbers upon the motor vehicle.

3. The date and place the motor vehicle was found or seized.

Said motor vehicle shall be retained at such storage location for a period of ninety (90) days unless earlier redeemed or unsold after such ninety (90) day period.

H. *Redemption.* The owner of a seized motor vehicle or the holder of a security interest thereon which is in default, shall have a right of redemption regarding such motor vehicle at any time prior to

a sale thereof. Redemption shall be made by tendering payment of the actual reasonable charges incurred in towing and storage of such motor vehicle.

I. *Sale Of A Seized Motor Vehicle And Notice Thereof.* After the expiration of the ninety (90) day period of storage provided by Subsection (G) above, the motor vehicle, if unredeemed, shall be offered at public sale after giving ten (10) days public notice thereof. The notice of sale shall be posted at the storage location, at City Hall and at the Jasper County Courthouse, Carthage, Missouri, and shall include the following information:

1. A description of the motor vehicle.
2. Any identifying marks or numbers thereon.
3. The date and place it was found or seized.
4. The time and place of the public sale.

Proceeds from the public sale shall be first applied to the actual reasonable costs of seizure and storage of the motor vehicle stored, with the remainder of the proceeds of sale to be deposited in the General Revenue Fund of the City. A bill of sale signed by the Mayor, attested by the City Clerk and bearing the Seal of the City shall be issued to the purchaser at such sale.

J. It shall be unlawful for any person to interfere with, hinder or refuse to allow the Code Enforcement Officer, Chief of Police or his/her designated representative to enter upon private real property for the purpose of inspection, seizure or removal of any motor vehicle alleged to be or in violation of any provisions of this Section.

K. Each day that a violation of this Section exists shall be a separate offense.

Article III. Weeds, High Grass or Other Vegetation

Section 220.100. Weeds, High Grass or Other Vegetation.

A. *Failure To Keep Weeds, High Grass And Other Vegetation Cut And Removed, A Nuisance.* All persons owning or occupying any lot or tract of land in the City shall keep the weeds, high grass and other vegetation growing on such property cut and removed. Whenever such weeds, high grass or other vegetation shall attain the height of twelve (12) inches, it shall be deemed a public nuisance.

B. *Unlawful To Maintain Such Nuisance.* It shall be unlawful for any person to create or maintain a nuisance as defined in Subsection (A).

C. *Liability.* Whenever weeds, high grass or other vegetation in violation of Subsection (A) of this Section are allowed to grow on any part of any lot or ground within the City, the owner of the ground or, in case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof shall be liable.

D. *Notice.* The Code Enforcement Officer, or other City Official as designated in such ordinance, shall give notice thereof, either personally or by United States mail, to the owner or owners or the owner's agents or by posting such notice on the premises; thereupon, the Code Enforcement Officer or other designated City Official may declare the weeds, high grass or other vegetation to be a nuisance and order the same to be abated within fourteen (14) days.

E. *Disposition.* In case the weeds, high grass or other vegetation are not cut down and removed within the fourteen (14) days, the Code Enforcement Officer or other designated City Official shall summons the owner, owners, or the owner's agents for ordinance violation or may have the weeds, high grass or other vegetation cut down and removed and shall certify the costs of same to the City Clerk.

F. *Tax Bill.* The City Clerk shall cause a special tax bill therefor against the property to be prepared and to be collected.

Chapter 225. Human Rights

Article I. Discriminatory Practices

Section 225.010. Unlawful Housing Practices.

A. It shall be an unlawful housing practice:

1. To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, to deny or otherwise make unavailable a dwelling to any person because of race, color, religion, national origin, ancestry, sex, disability or familial status.

2. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, ancestry, sex, disability or familial status.

3. To make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin, ancestry, sex, disability or familial status, or an intention to make any such preference, limitation or discrimination.

4. To represent to any person because of race, color, religion, national origin, ancestry, sex, disability or familial status that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

5. To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, ancestry, sex, disability or familial status.

6. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

   a. That buyer or renter;

   b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or

   c. Any person associated with that buyer or renter.

7. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

   a. That person;

b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or

c. Any person associated with that person.

B. For purposes of Sections 225.010, 225.020 and 225.030, discrimination includes:

1. A refusal to permit, at the expense of the person with the disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

2. A refusal to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

3. In connection with the design and construction of covered multi-family dwellings for first (1st) occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:

a. The public use and common use portions of such dwellings are readily accessible to and usable by persons with a disability.

b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs.

c. All premises within such dwellings contain the following features of adaptive design:

(1) An accessible route into and through the dwelling;

(2) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(3) Reinforcements in bathroom walls to allow later installation of grab bars; and

(4) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

C. As used in Subdivision (3) of Subsection (B) of this Section, the term *"covered multi-family dwelling"* means:

1. Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; and

2. Ground floor units in other buildings consisting of four (4) or more units.

D. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing accessibility and usability for people with physical disabilities, commonly cited as "ANSI A117.1", suffices to satisfy the requirements of Subsection (B)(3)(a) of this Section.

Section 225.020. Discrimination in Commercial Real Estate Loans.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance because of race, color, religion, national origin, ancestry, sex, disability or familial status to a person applying therefor for the purpose of purchasing, construction, improving, repairing or maintaining a dwelling, or to discriminate against him/her in fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of the race, color, religion, national origin, ancestry, sex, disability or familial status of such person or of any person associated with him/her in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the dwellings in relation to which such loan or other financial assistance is to be made or given.

Section 225.030. Discrimination in Selling or Renting By Real Estate Agencies Prohibited.

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service organization or facility relating to the business of selling or renting dwellings on account of race, color, religion, national origin, ancestry, sex, disability or familial status.

Section 225.040. Discrimination in Public Accommodations Prohibited — Exceptions.

A. All persons within the City of Carterville are free and equal and shall be entitled to the full and equal use and enjoyment within this State of any place of public accommodation, as hereinafter defined, without discrimination or segregation on the grounds of race, color, religion, national origin, sex, ancestry or disability.

B. It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person or to attempt to refuse, withhold from or deny any other person any of the accommodations, advantages, facilities, services or privileges made available in any place of public accommodation, as defined in Section 213.010 RSMo., and this Section, or to segregate or discriminate against any such person in the use thereof on the grounds of race, color, religion, national origin, sex, ancestry or disability.

C. The provisions of this Section shall not apply to a private club, a place of accommodation owned by or operated on behalf of a religious corporation, association or society or other establishment which is not in fact open to the public, unless the facilities of such establishments are made available to the customers or patrons of a place of public accommodation as defined in Section 213.010 RSMo., and this Section.

Section 225.050. Additional Unlawful Discriminatory Practices.

A. It shall be an unlawful discriminatory practice:

1. To aid, abet, incite, compel or coerce the commission of acts prohibited under this Chapter or to attempt to do so;

2. To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this Chapter or because such person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing conducted pursuant to this Chapter;

3. For the City to discriminate on the basis of race, color, religion, national origin, sex, ancestry, age, as it relates to employment, disability or familial status as it relates to housing; or

4. To discriminate in any manner against any other person because of such person's association with any person protected by this Chapter.

Section 225.060. Exemptions.

A. Nothing in this Chapter shall be construed to invalidate or limit any law of the State or of the City that requires dwellings to be designed and constructed in a manner that affords persons with disabilities greater access than is required by this Chapter.

B. Nothing in Sections 225.010, 225.020 and 225.030:

1. Requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

2. Limits the applicability of any reasonable local restriction regarding the maximum number of occupants permitted to occupy a dwelling, nor does any provision of said Sections regarding familial status apply with respect to housing for older persons.

3. Shall prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance, as defined by Section 195.010, RSMo.

C. Nothing in this Chapter shall prohibit a religious organization, association or society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this Chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

D. Nothing in this Chapter, other than the prohibitions against discriminatory advertising in Subsection (A)(3) of Section 225.010, shall apply to:

1. The sale or rental of any single-family house by a private individual owner, provided the following conditions are met:

a. The private individual owner does not own or have any interest in more than three (3) single-family houses at any one time; and

b. The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or renting dwellings and without publication, posting or mailing of any advertisement. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this Section applies to only one (1) such sale in any twenty-four (24) month period.

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his/her residence.

Chapter 230. Emergency Management

Section 230.010. Establishment.

There is hereby created within and for the territory of City of Carterville an emergency management organization to be known as the City of Carterville Emergency Management Organization, which is responsible for the preparation and implementation of emergency functions required to prevent, minimize and repair injury and damage due to disasters, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people, and emergency activities (excluding functions for which military forces are primarily responsible) in accordance with Chapter 44, RSMo., and supplements thereto, and the Missouri Emergency Operations Plan adopted thereunder.

Section 230.020. Organization.

This agency shall consist of a Director and other members appointed by the Director to conform to the State organization and procedures for the conduct of emergency operations as outlined in the Missouri Emergency Operations Plan.

Section 230.030. Functions.

The organization shall perform emergency management functions within the territorial limits of the City of Carterville, and may conduct these functions outside the territorial limits as directed by the Governor during the time of emergency pursuant to the provisions of Chapter 44, RSMo., 1994, and supplements thereto.

Section 230.040. Director and Assistant Director.

A. The Emergency Management Director shall be designated or appointed by the Mayor, and shall serve in such capacity at the pleasure of the Mayor.

B. The Emergency Management Director shall have direct responsibility for the organization, administration and operation of local emergency management operations, subject to the direction and control of the Mayor or City Administrator.

C. The Emergency Management Director shall be responsible for maintaining records and accounting for the use and disposal of all items or equipment placed under the jurisdiction of the Carterville Emergency Management Department.

D. If appointed, the Assistant Emergency Management Director shall assist the Emergency Management Director in the execution of his/her duties.

Section 230.050. Scope of Operation.

A. The Mayor of the City of Carterville and the Director, in accordance with Chapter 44, RSMo., and supplements thereto, may:

1. Appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons,

including emergency assistance to victims of natural and man-made disasters, or national emergency; the safety of property; and direct and coordinate the development of disaster plans and programs in accordance with the policies and plans of the Federal and State emergency management agencies;

2. In the event of a national emergency or severe local emergency endangering public health, welfare, life or public property, waive the normal purchasing/supply requisition procedures, upon approval of the Mayor and in accordance with State Statutes and any local emergency procurement procedures formally adopted by the City of Carterville;

3. Appoint, provide, or remove rescue teams, auxiliary fire and police personnel and other emergency operations teams, units or personnel who may serve without compensation;

4. With the approval of the Governor and consistent with the Missouri Emergency Operations Plan, enter into mutual-aid agreements with other public and private agencies within and without the State for reciprocal emergency aid;

5. Accept donated goods/services to benefit disaster victims, and services, materials, equipment, supplies or funds granted or loaned by the Federal Government for disaster mitigation, preparedness, response and recovery purposes.

Section 230.060. Mutual-Aid Agreements.

The Mayor may enter into mutual-aid arrangements or agreements with other public and private agencies within and without the State for reciprocal emergency aid as authorized in Section 44.090, RSMo.

Section 230.070. City May Accept Services, Etc.

The Mayor of the City may, with the consent of the Governor, accept services, materials, equipment, supplies or funds gifted, granted or loaned by the Federal Government or an officer or agency thereof for emergency management purposes, subject to the terms of the offer.

Section 230.080. Oath.

No person shall be employed or associated in any capacity in any organization established under this act who advocates or has advocated a change by force or violence in the constitutional form of the Government of the United States or in this State or the overthrow of any Government in the United States by force or violence, or has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization shall, before entering upon his/her duties, take an oath, in writing, before a person authorized to administer oaths in this State, which oath shall be substantially as follows:

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

a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence."

Section 230.090. Office Space.

The Mayor is authorized to designate space in any City of Carterville owned or leased building for the Carterville Emergency Management Office.

Chapter 235. Solid Waste

Article I. Solid Waste Management

Section 235.010. Definitions.

A. For the purposes of this Article, the following terms shall be deemed to have the meaning indicated below:

APPLIANCE

Machines common to household use and includes ranges, ovens, cooktops, refrigerators, dishwashers, clothes washers and dryers, microwave ovens, water heaters, furnaces, air conditioners, dehumidifiers, humidifiers, television sets, lawn mowers, stereo systems, vacuum cleaners, video cassette recorders, radios and any other devices used in the home that contain a gasoline engine, electric motor or require electricity to properly operate.

APPROVED INCINERATOR

An incinerator which complies with all current regulations of the responsible local, State and Federal air pollution control agencies.

BULKY RUBBISH

Non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded in solid waste transportation vehicles by solid waste collectors with the equipment available therefor.

CEREAL BOXES

The outer box usually containing breakfast cereal, but also the same box material used to package other dry foods, provided it has not been impregnated with wax or plastic.

CITY

City of Carterville, Missouri.

COLLECTION

Removal of solid waste from the designated pickup location to the transportation vehicle.

COMMERCIAL SOLID WASTE

Solid waste resulting from the operation of any commercial, industrial, agricultural, retail or service business located upon any premises including premises used in whole or in part as a residential dwelling.

DEMOLITION AND CONSTRUCTION WASTE

Lumber, wallboard, tile, brick, block, roofing material, plumbing fixtures, wire and other materials commonly found in the residential structures, accessory buildings, fences and landscaping structures; provided that such waste is generated by a residential user of the City's solid waste management system, as defined herein.

DWELLING UNIT

Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used or are intended to be used for living, sleeping, cooking and eating.

GLASS

Any of the large class of materials with highly variable mechanical and optical properties that solidify from molten state without crystallization, that are typically based on silicon dioxide, boric oxide, aluminum oxide or phosphorus pentoxide, that are generally transparent or translucent which are formed into containers in which food, beverages, liquids, powders and other materials are stored or preserved. Any object generally considered glass by the general population is included in this definition.

HAZARDOUS WASTE

Any waste or combination of wastes, as determined by the commission by rules and regulations, which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or pose a present or potential threat to the health of humans or the environment

HOUSEHOLD HAZARDOUS WASTE

Oil-based paint and water-based paint, thinners, pesticides, herbicides, fertilizers, motor oil, auto and furniture polish. Any material generally available at over-the-counter general merchandise retail stores in the local area and considered household materials is included in this definition.

MULTIPLE-HOUSING FACILITY

A housing facility containing more than one (1) dwelling unit under one (1) roof.

OCCUPANT

Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or of any other improved real property, either as owner or as a tenant.

PAPER

Any thin sheet of material made of cellulose pulp, derived mainly from wood, rags, certain grasses, processed into flexible leaves or rolls by deposit from an aqueous suspension and used chiefly for writing, printing, drawing, wrapping and covering walls. Any object generally considered paper by the general population is included in this definition.

PERSON

Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision or organization of any kind or their legal representative, agent or assigns.

PLASTIC

Any of the various complex organic compounds produced by polymerization capable of being molded, extruded or cased into various shapes and films or drawn into filaments used in textile fibers and lines and ropes and includes such materials formed into containers for the storage or preservation of food, beverages, liquids, powders or other materials. Any object generally considered plastic by the general population is included in this definition.

PROCESSING

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

SOLID WASTE

Garbage, refuse and other discarded materials including, but not limited to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include hazardous waste as defined in Sections 260.360 to 260.432, RSMo. recovered materials, overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting.

1. *Commercial solid waste.* Solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment, including *"multiple-housing facilities"* as defined herein, with two (2) or more dwelling units and all facilities utilizing *"multiple user solid waste containers"* as defined herein.

2. *Residential solid waste.* Solid waste resulting from the maintenance and operation of dwelling units, including *"multiple-housing facilities"* as defined herein, with four (4) dwelling units or less provided that such facility utilizes separate solid waste containers for each dwelling unit.

SOLID WASTE CONTAINER

Receptacle used by any person to store solid waste during the interval between solid waste collections.

1. *Non-disposable solid waste container (residential).* A solid waste container of a type originally manufactured for residential solid waste, having not more than thirty-three (33) gallons nor less than twenty (20) gallons in nominal capacity, which is leakproof, waterproof and fitted with a fly-tight lid. The container shall be of lightweight and sturdy construction with handles, bails or other suitable lifting devices or features with tapered sides for easy emptying. The weight of any individual container and contents shall not exceed seventy-five (75) pounds. Galvanized metal containers or rubber, fiberglass or plastic containers which do not become brittle in cold weather may be used.

2. *Non-disposable solid waste container (commercial).* A solid waste container of a type as approved by the City which shall be waterproof, leakproof and covered at all times.

3. *Disposable solid waste container (residential).* A disposable plastic or paper solid waste container of a type specifically designed for storage of solid waste, having not more than thirty-three (33) gallons nor less than twenty (20) gallons in nominal capacity, which is drawn or tied closed.

4. *Multiple user container.* Any solid waste container or containers used to store solid waste from two (2) or more residential or commercial users.

SOLID WASTE DISPOSAL

The process of discarding or dumping unwanted material, in particular the final deposition of solid waste.

SOLID WASTE MANAGEMENT

The entire solid waste system of storage, collection, transportation, processing and disposal.

STORAGE

Keeping, maintaining or storing solid waste from the time of its production until the time of its collection.

TRANSPORTATION

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

USER

Any separate, single billable entity under the solid waste management plan.

1. *Residential user.* Any person within the City who generates residential waste and who is provided solid waste collection service under the City solid waste management plan.

2. *Commercial user.* Any person within the City who generates commercial waste and who is provided solid waste collection service under the City solid waste management plan, including commercial users who contract with private collectors.

YARD WASTE

Leaves, grass clippings, yard and garden vegetation and Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

B. Any term not specifically defined herein shall have the meaning defined in Section 100.060 of this Code.

Section 235.020. Solid Waste Storage.

A. The following provisions of this Section apply to storage of solid waste from the time of its production until the time of its collection.

1. The occupant or owner of every dwelling unit and of every institutional, commercial or business, industrial or agricultural establishment producing solid waste within the corporate limits of the City shall be provided, through contract, sufficient and adequate containers for the storage of all solid waste, except bulky rubbish and demolition and construction waste, to serve each such

dwelling unit and/or establishment and to maintain such solid waste containers at all times in good repair.

2. Whenever solid waste is removed from the user's dwelling unit or building and placed outside for storage, the occupant or owner of every dwelling unit and of every institutional, commercial, industrial, agricultural or business establishment shall place all solid waste to be collected in proper solid waste containers, except as otherwise provided herein, and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times.

3. Commercial solid waste shall be stored in solid waste containers as defined herein and approved by the City. The containers shall be covered at all times except when depositing waste therefrom or removing the contents thereof and shall meet all requirements as set forth by the rules and regulations promulgated by the City.

4. Solid waste containers which do not meet the specifications as outlined in this Section will be collected together with their contents and disposed of or rejected for replacement by the resident.

Section 235.030. Collection.

A. The City shall provide for the collection of solid waste as follows:

1. *Residential solid waste.* The City shall provide for the collection of all residential solid waste in the City, provided however, that the City may provide the collection service by contracting with a person, County or other City or a combination thereof, for the entire City or portions thereof, as deemed to be in the best interests of the City.

2. *Commercial solid waste.* The City may provide for the collection of all commercial solid waste in the City by requiring all commercial users to contract with a private contractor approved by the City.

B. Solid waste containers as required by this Article for the collection of residential solid waste shall be placed at the curb or alley for collection, as determined by rules and regulations promulgated by the collecting agency. Non-disposable solid waste containers may be placed at curbside pickup location the night before the day of collection.

C. Bulky rubbish shall be collected at a limit of one (1) item per weekly pickup. This service shall be provided at no additional cost to customers.

D. Solid waste collectors operating under contract with the City, are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this Article. Solid waste collectors shall not enter dwelling units or other residential buildings for the purpose of collecting residential solid waste. Commercial solid waste may be removed from within commercial establishments upon written request of the owner and approval by the private collector contracting with the commercial user.

E. Upon written request submitted by a residential user and approved by the solid waste collecting agency under contract with the City, shall pick up solid waste containers of those persons physically unable to place those containers near the curb; however, in no case will the collector be required to go inside any residence.

F. The following collection frequencies shall apply to collections of solid waste within the City:

1. All residential solid waste shall be collected once weekly

2. All commercial solid waste shall be collected at intervals as may be fixed by the commercial establishment but not that such intervals are detrimental to the preservation of the health and/or safety of the public.

G. Residential solid waste containers shall be stored upon the residential premises. The storage site shall be well drained and fully accessible to collection equipment, public health personnel and fire inspection personnel.

H. Any solid waste collection agency operating under contract with the City, shall be responsible for the collection of solid waste from the designated pickup location to the transportation vehicle, provided the solid waste was stored in compliance with the provisions set forth in this Article. Any spillage or blowing litter caused as a result of the duties of the solid waste collector shall be collected and placed in the transportation vehicle by the solid waste collector.

I. The City shall provide at least one (1) cleanup collection annually for all residents in addition to the weekly solid waste collection. The purpose of these cleanup collections shall be for the collection and disposal of bulky wastes, yard wastes, tree limbs and other items as determined from time to time and shall be free of charge to City residents. The time for pickups shall be determined and published in advance.

J. Any collection agency responsible for the collection of residential solid waste shall maintain an office with a toll-free telephone and shall keep said office open from 8:00 A.M. to 5:00 P.M. Monday through Friday for the purpose of receiving complaints, requests for service, etc.

Section 235.040. Transportation of Solid Waste.

A. All transportation vehicles shall be maintained in a safe, clean and sanitary condition and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for transportation of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste or, as an alternate, the entire bodies thereof shall be enclosed, with only loading hoppers exposed. No solid waste shall be transported in the loading hoppers.

B. Permits shall not be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities; however, all such material shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.

C. A residential user shall not be required to obtain a permit for the collection and transportation of demolition and construction waste. The user may transport such waste or contract with a third (3rd) party to do so. All such material conveyed by the residential user or such residential user's third (3rd) party contractor shall be collected, contained and conveyed in receptacles with a capacity not exceeding twenty (20) cubic yards. All such waste material shall be transported in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.

Section 235.050. Disposal of Solid Waste.

A. Solid wastes shall be deposited at a processing facility or disposal area approved by the City and complying with all requirements of the Missouri Solid Waste Management Law, Sections 260.200 to 260.255, RSMo., and the rules and regulations adopted thereunder. The City may designate the processing or disposal facility to be utilized by persons operating under Section 235.060 of this Article.

B. Any material classified as hazardous wastes as defined herein will require special handling and shall be transported or disposed of only in a manner authorized by State regulations.

Section 235.060. Permits.

A. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the City without first obtaining an annual permit therefor from the City, provided however, that this provision shall not be deemed to apply to employees of the holder of any such permit.

B. No such permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of a satisfactory public liability insurance policy, covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, in the amount of not less than one million dollars ($1,000,000.00) for each person injured or killed and in the amount of not less than one million dollars ($1,000,000.00) in the event of injury or death of two (2) or more persons in any single accident and in the amount of not less than five hundred thousand dollars ($500,000.00) for damage to property. Should any such policy be canceled, the City shall be notified of such cancellation by the insurance carrier in writing not less than thirty (30) days prior to the effective date of such cancellation and provisions to that effect shall be incorporated in such policy, which shall also place upon the company writing such policy the duty to give such notice.

C. Each applicant for any such permit shall state in his/her application therefor:

1. The nature of the permit desired as to collect, transport, process or dispose of solid waste or any combination thereof;
2. The characteristics of solid waste to be collected, transported, processed or disposed;
3. The number of solid waste transportation vehicles to be operated thereunder;
4. The precise location or locations of solid waste processing or disposal facilities to be used;
5. Boundaries of the collection area; and
6. Such other information as required by the City.

D. If the application shows that the applicant will collect, transport, process or dispose of solid wastes without hazard to the public health or damage to the environment and in conformity with the laws of the State of Missouri and this Article, the City may issue the permit authorized by this Article. The City shall have the authority to limit the number of annual permits issued under this Section in order to preserve the health, comfort, safety and welfare of the residents, to promote energy conservation, and to provide for collection and disposal consistent with good solid waste management practices. The permit shall be issued for a period of one (1) year and each applicant shall pay therefor a fee of fifty dollars ($50.00) for each transportation vehicle to be used. If, in the opinion of the City, modifications can be made to the application regarding service, equipment or

mode of operation so as to bring the application within the intent of this Article, the City shall notify the applicant in writing setting forth the modification to be made and the time in which it shall be done.

E. If the applicant does not make the modifications pursuant to the notice in Subsection (D) within the time limit specified therein or if the application does not clearly show that the collection, transportation, processing or disposal of solid wastes will create no public health hazard or be without harmful effects on the environment, the application shall be denied and the applicant notified by the City, in writing, stating the reason for such denial. Nothing in this Section shall prejudice the right of the applicant to reapply after the rejection of his/her application, provided that all aspects of the reapplication comply with the provisions of this Article. Nothing in this Section shall prevent the denial of a permit should the total number of annual permits have already been issued.

F. The annual permit may be renewed upon payment of the fee or fees as designed herein if the business has not been modified, the collection vehicles continue to meet the requirements of Section 235.040 of this Article and the renewal is approved by the City. If modifications have been made, the applicant shall reapply for a permit as set forth in Subsections (B) and (C) of this Section. No permits authorized by this Article shall be transferable from person to person.

G. In order to ensure compliance with the laws of this State, this Article and the rules and regulations authorized herein, the City or its designee is authorized to inspect all phases of solid waste management within the City. No inspection shall be made in any residential unit unless authorized by the occupant or by due process of law. In all instances where such inspections reveal violation of this Article, the rules and regulations authorized herein for the storage, collection, transportation, processing or disposal of solid waste or the laws of the State of Missouri, the City shall issue notice for each such violation stating therein the violation or violations found, the time and date and the corrective measure to be taken, together with the time in which such corrections shall be made.

H. In all cases, when the corrective measures have not been taken within the time specified, the City shall suspend or revoke the permit or permits involved in the violation; however, in those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one (1) extension of time not to exceed the original time period may be given.

I. In the event a permit is revoked and the person continues to operate, the City may request the action of a court of law to enjoin the acts and to enforce compliance with this Article or any rule or regulation promulgated thereunder. In any such action, the court may grant to the City such prohibitory or mandatory injunctive relief as the facts may warrant, as well as attorney's fees and costs incurred in bringing such action.

J. Any person who feels aggrieved by any notice of violation or order issued pursuant thereto of the City may, within ten (10) days of the act for which redress is sought, appeal directly to the City Council in writing setting forth in a concise statement the act being appealed and the grounds for its reversal.

K. All motor vehicles operating under any permit required by this Article shall display the number or numbers on each side in colors which contrast with that of the vehicle, such numbers to

be clearly legible. Each permit for processing or disposal facilities shall be prominently displayed at the facility.

L. Any agency issued a permit to collect, transport or dispose of solid wastes as set forth herein shall agree to indemnify and hold harmless the City from any liability, claim, damage or cause of action which may be sustained or asserted against said City as the result, directly or indirectly, or in any manner of the performance or failure of performance on the part of the collecting agency.

Section 235.070. Rules and Regulations.

A. The City shall make, amend, revoke and enforce reasonable rules and regulations governing, but not limited to:

1. Preparation, drainage and wrapping of garbage deposited in solid waste containers.
2. Specifications for solid waste containers, including the type, composition, equipment, size and shape thereof.
3. Identification of solid waste containers and of the covers thereof and of equipment thereto appertaining, if any.
4. Weight limitations on the combined weight of solid waste containers and the contents thereof and weight and size limitations on bundles of solid waste too large for solid waste containers.
5. Storage of solid waste in solid waste containers.
6. Sanitation, maintenance and replacement of solid waste containers.
7. Schedules of and routes for collection and transportation of solid waste.
8. Collection points of solid waste containers.
9. Collection, transportation, processing and disposal of solid waste, bulky waste, yard waste and construction waste.
10. Processing facilities and fees for the use thereof.
11. Disposal facilities and fees for the use thereof.
12. Records of quantity and type of wastes received at processing and/or disposal facilities.
13. Handling of special wastes such as sludges, ashes, agricultural, construction, bulky items, tires, automobiles, oils, greases, etc.

B. A copy of any and all rules and regulations made and promulgated under the provisions hereof shall be filed in the office of the City Clerk. A summary of all such rules and regulations shall be made available at least annually to all users under the City's solid waste management plan.

Section 235.080. Prohibited Practices.

A. It shall be unlawful for any person to:

1. Deposit solid waste in any solid waste container other than his/her own without the written consent of the owner of such container and/or with the intent of avoiding payment of the service charge hereinafter provided for solid waste collection and disposal;

2. Fail to have solid waste collected as provided in this Article;

3. Interfere in any manner with solid waste collection and transportation equipment or with solid waste collectors in the lawful performance of their duties as such.

4. Burn solid waste unless an approved incinerator is provided or unless a variance has been obtained from the appropriate air pollution control agency;

5. Dispose of solid waste at any facility or location which is not approved by the City and the Missouri Department of Natural Resources;

6. Engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the City without a permit from the City or operate under an expired permit or operate after a permit has been suspended or revoked;

7. Violate any Section of this Article or any other rule or regulation promulgated under the authority of this Article or this Code.

8. Allow construction/demolition dumpsters to be located directly on any city street without being placed on plywood or another sufficient material to protect the street from damage.

B. Any user found to be violating any provision of this Article shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof.

Section 235.090. Service Charges and Enforcement.

A. The system of solid waste collection and disposal services established by the provisions of this Article is designed as an integral part of the City's program for health and sanitation to be operated as an adjunct to the City's system for providing potable water and sewage disposal.

B. The City shall bill all users for collection and disposal of solid waste by adding a charge for such service to the City water bill, provided however, that the City shall not charge commercial users who have provided for collection by a City-approved private collection agency. The solid waste charge shall be established by the City Council by ordinance.

C. All residential users shall be billed monthly. Billings for any particular month shall be made within twenty (20) days after the end of that month. Payments are due when the billings are made. Any payment not received within twenty (20) days after the billing is made shall be delinquent.

D. A late payment penalty of ten percent (10%) of the user charge bill will be added to each delinquent bill. When any bill is thirty (30) days in default, rendition of water and/or solid waste collection service may be discontinued upon due notice and opportunity for hearing. The City may also enforce collection of such charges by bringing proper legal action against the occupant of any premises which have received such services to recover sums due for such services plus a reasonable attorney's fee to be determined by the Municipal Court.

E. The collection service and residential user charge shall be terminated upon presentment of satisfactory proof to the City or its agent that any such dwelling unit or establishment is unoccupied and shall be commenced upon renewed occupancy thereof.

Section 235.100. Penalties.

A. A user who, for any reason, fails to provide for the collection and disposal of solid waste generated by that person according to the provisions of the City's solid waste management plan shall be deemed in violation of this Article.

B. Any person collecting, transporting or disposing solid waste within the City who shall violate any provision of this Article shall be guilty of a misdemeanor. For each violation and each day in which any such violation continues shall be deemed a separate offense.

Section 235.110. Bonds.

Each applicant for a permit to collect residential or commercial solid waste or to operate transportation, processing or disposal facilities may be required to post a performance and indemnity bond in an amount to be determined by the City.

Section 235.120. Non-Exclusive.

Nothing herein shall prevent any resident or commercial establishment from the disposition of trash through licensed and bonded pickup haulers involving special cleanup of storage or other areas of commercial buildings, nor shall it apply to disposition of grass, weeds, limbs, trees or other materials being removed under special contract, oral or written, however, each occupied residential unit shall pay for regular weekly collection of solid waste as provided in this Section.

Section 235.130. Rates For Residential Solid Waste Collection and Disposal.

A. The rate charged by the City of Carterville, Missouri, for residential solid waste collection and disposal is hereby established as a per month charge based on the annual rate under contract. The city will solicit contracts on a 5-year schedule with local waste management companies.

B. The City will charge an additional administrative fee for billing and account management.

C. Customers may obtain additional polycarts at a cost and manner determined by the contracted waste management agency.

Article II. City Dumpster and Trash Disposal System

Section 235.140. In General.

A. The City may, during annual clean-up or on other occasions offer a City dumpster for the use of City residents to dispose of excessive rubbish and waste. No construction waste, tires, or hazardous chemicals will be allowed in addition to any other limitations set by the City.

B. Any person other than a resident of this City who dumps any material in the City dump or any resident of the City who dumps unapproved materials in the City dump shall be guilty of a misdemeanor and may be punished in accordance with Section 100.110 of this Code.

Section 235.150. Supervisor in Charge of City Dump.

The Public Works Director or employee under his/her supervision to be in charge of the City dumpster.

Section 235.160. Fence — Hours For Dumping.

The City dumpster area may be fenced and a gate installed to regulate entry to and from the dumping area. Dumping hours shall be determined by the Public Works Director subject to City Council approval.

Chapter 240. Food Service Establishments

Article I. In General

Section 240.010. Definitions.

The following definitions shall apply in the interpretation and the enforcement of this Article:

ADULTERATED

A food shall be deemed to be adulterated:

1. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this subdivision if the quantity of such substance in such food does not ordinarily render it injurious to health; or
2. If it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of Section 196.085, RSMo.; or
3. If it consists, in whole or in part, of any diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or
4. If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered diseased, unwholesome, or injurious to health; or
5. If it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or
6. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or
7. If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or
8. If any substance has been substituted wholly or in part therefor; or
9. If damage or inferiority has been concealed in any manner; or
10. If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is; or
11. If it is confectionery and it bears or contains any alcohol or non-nutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one percent (.4%), harmless natural wax not in excess of four-tenths of one percent (.4%), harmless natural gum, and pectin; provided, that this subdivision shall not apply to any

confectionery, by reason of its containing less than five percent (5%) by weight of alcohol, or to any chewing gum by reason of its containing harmless non-nutritive masticatory substances; or

12. If it bears or contains a coal tar color other than one from a batch which has been certified under authority of the federal act.

APPROVED

Acceptance to the health authority based on his/her determination as to conformance with appropriate standards and good public health practice.

CLOSED

Fitted together snugly leaving no openings large enough to permit the entrance of vermin.

CORROSION-RESISTANT MATERIAL

A material which maintains its original surface characteristics under prolonged influence of the food cleaning compounds and sanitizing solutions which may contact it.

EASILY CLEANABLE

Readily accessible and of such material and finish and so fabricated that residue may be completely removed by normal cleaning methods.

EMPLOYEE

Any person working in a food-service establishment who transports food or food containers, who engages in food preparation or service, who comes in contact with any food utensils or equipment.

EQUIPMENT

All stoves, ranges, hoods, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables and similar items, other than utensils, used in the operation of a food service establishment.

FOOD

Articles used for food or drink for man or other animals, chewing gum, and articles used for components of any such article.

FOOD-CONTACT SURFACES

Those surfaces of equipment and utensils with which food normally comes in contact and those surfaces with which food may come in contact and drain back onto surfaces normally in contact with food.

FOOD-PROCESSING ESTABLISHMENT

A commercial establishment in which food is processed or otherwise prepared and packaged for human consumption.

FOOD-SERVICE ESTABLISHMENT

Any fixed or mobile restaurant; coffee shop; cafeteria; short-order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial-

feeding establishment; private, public and non-profit organization or institution routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

HEALTH AUTHORITY

The Director of Health of the City if appointed and if not, the City Code Enforcement Officer.

KITCHENWARE

All multi-use utensils other than tableware used in the storage, preparation, convening or serving of food.

MISBRANDED

A food shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular;
2. If it is offered for sale under the name of another food;
3. If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word, "imitation", and, immediately thereafter, the name of the food imitated;
4. If its container is so made, formed or filled as to be misleading;
5. If in package form, unless it bears a label containing:
    a. The name and place of business of the manufacturer, packer or distributor;
    b. An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (b) of this subdivision reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the department of health and senior services;
6. If any word, statement, or other information required by or under authority of Sections 196.010 to 196.120, RSMo., to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
7. If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by Section 196.050, RSMo., unless it conforms to such definition and standard, and its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food;
8. If it purports to be or is represented as:
    a. A food for which a standard of quality has been prescribed by regulations as provided by Section 196.050, RSMo., and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

b. A food for which a standard or standards of fill of container have been prescribed by regulation as provided by Section 196.050, RSMo., and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

9. If it is not subject to the provisions of subdivision (7) of this section, unless it bears labeling clearly giving:

a. The common or usual name of the food, if any there be; and

b. In case it is fabricated from two (2) or more ingredients, the common or usual name of each such ingredient, except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that, to the extent that compliance with the requirements of paragraph (b) of this subdivision is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the department of health and senior services; provided further, that the requirements of paragraph (b) of this subdivision shall not apply to any carbonated beverage the ingredients of which have been fully and correctly disclosed, to the extent prescribed by said paragraph (b) to the department of health and senior services in an affidavit;

10. If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the department of health and senior services determines to be, and by regulations prescribed, as necessary in order to fully inform purchasers as to its value for such uses;

11. If it bears or contains any artificial flavoring, coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this subdivision is impracticable, exemptions shall be established by regulations promulgated by the department of health and senior services; and provided further, that subdivision (11) shall not apply to artificial coloring in butter, cheese or ice cream;

12. The department is hereby directed to promulgate regulations exempting from any labeling requirement of Sections 196.010 to 196.120, RSMo., small open containers of fresh fruits and vegetables and food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of said sections upon removal from such processing, labeling or repackaging establishment.

PERISHABLE FOOD

Any food of such type or in such condition as may spoil.

PERSON

An individual or a firm, partnership, company, corporation, trustee, association or any public or private entity.

POTENTIALLY HAZARDOUS FOOD

Any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms.

SAFE TEMPERATURES

As applied to potentially hazardous food, temperatures of forty-five degrees Fahrenheit (45°F) or below and one hundred forty degrees Fahrenheit (140°F) or above.

SANITIZE

Effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the health authority as being effective in destroying micro-organisms, including pathogens.

SEALED

Free of cracks or other openings which permit the entry or passage of moisture.

SINGLE-SERVICE ARTICLES

Caps, containers, lids or closures; plates, knives, forks, spoons, stirrer, paddles, straws, placemats, napkins, doilies, wrapping material; and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic or other readily destructible materials and which are intended by the manufacturers and generally recognized by the public as for one (1) usage only, then to be discarded.

TABLEWARE

All multi-use eating and drinking utensils including flatware (knives, forks and spoons).

TEMPORARY FOOD-SERVICE ESTABLISHMENTS

Any food-service establishment operating at a location for a temporary period of time not to exceed two (2) weeks in connection with a fair, carnival, circus, public exhibition or similar transitory gathering.

UTENSIL

Any tableware and kitchenware used in the storage, preparation, convening or serving of food.

WHOLESOME

In sound condition, clean, free from adulteration and otherwise suitable for use as human food.

Section 240.020. Food — Free From Spoilage — Protection.

A. All food in food-service establishments shall be from sources approved or considered satisfactory by the health authority and shall be clean, wholesome, free from spoilage, free from adulteration and misbranding and safe for human consumption. No hermetically sealed non-acid and low-acid food which has been processed in a place other than a commercial food-processing establishment shall be used.

B. All food while being stored, prepared, displayed, served or sold at food-service establishments or during transportation between such establishments shall be protected from contamination. All perishable food shall be stored at such temperatures as will protect against spoilage. All potentially hazardous food shall be maintained at safe temperatures (forty-five degrees (45°) or below or one hundred forty degrees (140°) or above) except during necessary periods of preparation and service. Raw fruits and vegetables shall be washed before use. Stuffing, poultry, stuffed meats and poultry and pork and pork products shall be thoroughly cooked before being served. Individual portions of food once served to the customer shall not be served again, provided, that wrapped food which has not been unwrapped and which is wholesome may be reserved.

C. Only such poisonous and toxic materials as are required to maintain sanitary conditions and for sanitization purposes may be used or stored in food-service establishments. Poisonous and toxic materials shall be identified and shall be used only in such manner and under such conditions as will not contaminate food or constitute a hazard to employees or customers.

Section 240.030. Personnel — Disease Control — Cleanliness.

A. *Health And Disease Control.* No person while affected with any disease in a communicable form or while a carrier of such disease or while afflicted with boils, infected wounds, sores or an acute respiratory infection shall work in any area of a food-service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other individuals; and no person known or suspected of being affected with any such disease or condition shall be employed in such an area or capacity. If the manager or person in charge of the establishment has reason to suspect that any employee has contacted any disease in a communicable form or has become a carrier of such disease, he/she shall notify the health authority immediately.

B. *Cleanliness.* All employees shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to hygienic practices while on duty. They shall wash their hands thoroughly in an approved handwashing facility before starting work and as often as may be necessary to remove soil and contamination. No employee shall resume work after visiting the toilet room without first washing his/her hands.

Section 240.040. Food Equipment and Utensils.

A. *Sanitary Design, Construction And Installation Of Equipment And Utensils.* All equipment and utensils shall be so designed and of such material and workmanship as to be smooth, easily cleanable and durable and shall be in good repair; and the food-contact surfaces of such equipment and utensils shall, in addition, be easily accessible for cleaning, non-toxic, corrosion resistant and relatively non-absorbent, provided that when approved by the health authority, exceptions may be made to the above materials requirements for equipment such as cutting boards, blocks and bakers' tables. All equipment shall be so installed and maintained as to facilitate the cleaning thereof and of all adjacent areas. Equipment in use at the time of adoption of this Article which does not meet fully the above requirements may be continued in use if it is in good repair, capable of being maintained in a sanitary condition and the food contact surfaces are non-toxic. Single-service articles shall be made from non-toxic materials.

B. *Cleanliness Of Equipment And Utensils.* All eating and drinking utensils shall be thoroughly cleaned and sanitized after each usage. All kitchenware and food-contact surfaces of equipment and utensils shall be so stored and handled as to be protected from contamination. All single-service articles shall be stored, handled and dispensed in a sanitary manner and shall be used only once.

Food-service establishments which do not have adequate and effective facilities for cleaning and sanitizing utensils shall use single-service articles.

Section 240.050. Sanitary Facilities and Controls.

A. *Water Supply.* The water supply shall be adequate, of a safe, sanitary quality and from an approved source. Hot and cold running water under pressure shall be provided in all areas where food is prepared or equipment, utensils or containers are washed. Water, if not piped into the establishments, shall be transported and stored in approved containers and shall be handled and dispensed in a sanitary manner. Ice used for any purpose shall be made from water which comes from an approved source and shall be used only if it has been manufactured, stored, transported and handled in a sanitary manner.

B. *Sewage Disposal.* All sewage shall be disposed of in a public sewerage system or, in the absence thereof, in a manner approved by the health authority.

C. *Plumbing.* Plumbing shall be so sized, installed, maintained as to carry adequate quantities of water to required locations throughout the establishment; as to prevent contamination of the water supply; as properly to convey sewage and liquid wastes from the establishment to the sewerage or sewage disposal system; and so that it does not constitute a source of contamination of food, equipment or utensils, or create an unsanitary condition or nuisance.

D. *Toilet Facilities.* Each food-service establishment shall be provided with adequate, conveniently located toilet facilities for its employees. Toilet fixtures shall be of sanitary design and readily cleanable. Toilet facilities, including rooms and fixtures, shall be kept in a clean condition and in good repair. The doors of all toilet rooms shall be self-closing. Toilet tissue shall be provided. Easily cleanable receptacles shall be provided for waste materials and such receptacles in toilet rooms for women shall be covered. Where the use of non-water-carried sewage disposal facilities has been approved by the health authority, such facilities shall be separate from the establishment. When toilet facilities are provided for patrons, such facilities shall meet the requirements of this Subsection.

E. *Handwashing Facilities.* Each food-service establishment shall be provided with adequate, conveniently located handwashing facilities for its employees, including a lavatory or lavatories equipped with hot and cold or tiered running water, hand-cleansing soap or detergent and approved sanitary towels or other approved hand-drying devices. Such facilities shall be kept clean and in good repair.

F. *Garbage And Rubbish Disposal.* All garbage and rubbish containing food wastes shall, prior to disposal, be kept in leakproof, non-absorbent containers which shall be kept covered with tight-fitting lids when filled or stored, or not in continuous use, provided, that such containers need not be covered when stored in a special vermin-proofed room or enclosure or in a food waste refrigerator. All other rubbish shall be stored in containers, rooms or areas in an approved manner. The rooms, enclosures, areas and containers used shall be adequate for the storage of all food waste and rubbish accumulating on the premises. Adequate cleaning facilities shall be provided and each container, room or area shall be thoroughly cleaned after the emptying or removal of garbage and rubbish. Food-waste grinders, if used, shall be installed in compliance with State and local standards and shall be of suitable construction. All garbage and rubbish shall be disposed of with sufficient frequency and in such a manner as to prevent a nuisance.

G. *Vermin Control.* Effective measures shall be taken to protect against the entrance into the establishment and the breeding or presence on the premises of vermin.

Section 240.060. Other Facilities and Operations.

A. *Floors, Walls And Ceilings.* The floor surfaces in the kitchens, in all other rooms and areas in which food is stored or prepared and in which utensils are washed and in walk-in refrigerators, dressing or locker rooms and toilet rooms shall be of smooth, non-absorbent materials and so constructed as to be easily cleanable, provided, that the floors of non-refrigerated, dry food storage areas need not be nonabsorbent. All floors shall be kept clean and in good repair. Floor drains shall be provided in all rooms where floors are subjected to flooding-type cleanings or where normal operations release or discharge water or other liquid waste on the floor. All exterior areas where food is served shall be kept clean and properly drained and surfaces in such areas shall be finished so as to facilitate maintenance and minimize dust. The walls and ceilings of all rooms shall be kept clean and in good repair. All walls of rooms or areas in which food is prepared, or utensils or hands are washed, shall be easily cleanable, smooth and light-colored and shall have washable surfaces up to the highest level reached by splash or spray.

B. *Lighting.* All areas in which food is prepared or stored or utensils are washed, handwashing areas, dressing or locker rooms, toilet rooms and garbage and rubbish storage areas shall be well lighted. During all cleanup activities, adequate light shall be provided in the area being cleaned and upon or around equipment being cleaned.

C. *Ventilation.* All rooms in which food is prepared or served or utensils are washed, dressing or locker rooms, toilet rooms and garbage and rubbish storage areas shall be well ventilated. Ventilation hoods and devices shall be designed to prevent grease or condensation from dripping into food or onto food preparation surfaces. Filters, where used, shall be readily removable for cleaning or replacement. Ventilation systems shall comply with applicable State and local fire prevention requirements and shall, when vented to the outside air, discharge in such a manner as not to create a nuisance.

D. *Dressing Rooms And Lockers.* Adequate facilities shall be provided for the orderly storage of employees' clothing and personal belongings. Where employees routinely change clothes within the establishment, one (1) or more dressing rooms or designated areas shall be provided for this purpose. Such designated areas shall be located outside of the food preparation, storage and serving areas and the utensil-washing and storage areas, provided that when approved by the health authority, such an area may be located in a storage room where only completely packaged food is stored. Designated areas shall be equipped with adequate lockers, and lockers or other suitable facilities shall be provided in dressing rooms. Dressing rooms and lockers shall be kept clean.

E. *Housekeeping.* All parts of the establishment and its premises shall be kept clean, neat and free of litter and rubbish. Cleaning operations shall be conducted in such a manner as to minimize contamination of food and food contact surfaces. None of the operations connected with a food-service establishment shall be conducted in any room used as living or sleeping quarters. Soiled linens, coats and aprons shall be kept in suitable containers until removed for laundering. No live birds or animals shall be allowed in any area used for the conduct of food-service establishment operations, provided that guide dogs accompanying blind persons may be permitted in dining areas.

Section 240.070. Temporary and Mobile Food-Service Establishments.

A. A temporary food-service establishment shall comply with all provisions of this Article which are applicable to its operation, provided that the health authority may augment such requirements

when needed to assure the service of safe food, may prohibit the sale of certain potentially hazardous food, and may modify specific requirements for physical facilities when in his/her opinion no imminent health hazard will result.

B. *Mobile Food Service.*

1. *Definitions.* The following definitions shall apply in the interpretation and enforcement of this Article:

MOBILE FOOD-PROCESSING OPERATION

A mobile food-processing operation is one conducted from a truck, trailer or other vehicle that travels from place to place and from which food as defined in Section 240.010 of this Article is processed, prepared and sold.

SERVICE DEPOT

A service depot is a permanent building or room which is constructed and equipped for cleaning, sanitizing and replenishing the mobile food-processing unit.

STREET FOOD VENDOR

A street food vendor is that type of operation which involves the transportation and sale of prepackaged foods only from mobile units.

2. *Sanitary requirements of mobile food-processing units.*

a. Floors, walls, ceilings, lighting, ventilation, construction of utensils and equipment, disposal of wastes, storage, display and service food and drink and cleanliness of employees shall conform with the applicable requirements established in this Chapter.

b. The truck interior shall be completely enclosed with the exception of serving windows which shall be closed at all times other than when the operator is actually dispensing his/her products.

c. No food, food containers, wrapping and packaging material or utensils shall be kept in the driver's compartment of any mobile unit unless enclosed and unopened in its original container. The driver's compartment shall be separated by a complete partition from the area used for food preparation, service or storage. Self-closing doors between the driver's compartment and the serving area are permitted.

d. Hot and cold running water shall be available at all times while the unit is in operation. A water tank with a storage capacity of at least twenty (20) gallons shall be provided. Hot water at a temperature of at least one hundred ten degrees Fahrenheit (110°F) shall be available at a three (3) compartment sink and the handwashing lavatory. The water supply shall be from an approved source.

e. All mobile units shall have a lavatory for handwashing equipped with hot and cold running water, soap and approved sanitary towels or other approved hand-drying methods.

f. Each unit shall be equipped with a three (3) compartment sink of sufficient size to accommodate the largest piece to be cleaned therein. A waste water tank shall be provided equal to or exceeding the size of the portable water supply tank. It shall be emptied and cleaned as often as necessary to maintain it in a sanitary condition.

g. A refrigerator of sufficient size and capable of maintaining a temperature of forty-five degrees Fahrenheit (45°F) or less for all food requiring refrigeration shall be provided.

h. If the food is served hot and is held in readiness to serve, it shall be held at one hundred forty degrees Fahrenheit (140°F) or higher.

3. *Sanitary requirements of street food vendor.* Mobile units used solely for this purpose shall be kept clean at all times and the product protected against contamination.

4. *Sanitary requirements of a service depot.*

a. For all mobile food operations there shall be provided a service depot.

b. Floors, walls, ceilings, lighting, ventilation, construction of utensils and equipment, disposal of wastes, storage of food and drink equipment, litter and rubbish, sleeping quarters, lockers, linen containers and cleanliness of employees shall conform with the applicable requirements established in Section 240.010 through Section 240.060 of this Article.

c. An adequate supply of hot and cold running water for cleaning and sanitizing mobile units shall be available at all times. Water supply shall be from the public water system of the City. The hose used for filling the portable water tank of such mobile units shall be used for no other purpose. The hose shall be stored in such a manner as to be protected from contamination.

d. All equipment used in conjunction with mobile unit operation shall be thoroughly cleaned at the end of each day's operation.

e. The waste water tank on the mobile unit shall be emptied and cleaned only at the service depot. Proper drains shall be provided in the depot for this purpose. Adequate sanitary containers shall be provided for storage of trash and food wastes.

f. Adequate sanitary storage space shall be provided for supplies and equipment. A dry storage room or other facilities suitable for storing perishable foods at a temperature of forty-five degrees Fahrenheit (45°F), or lower, shall be provided.

g. Toilet and lavatory facilities shall be provided as specified in Section 240.040.

h. Facilities shall be provided which will assure the proper rinsing and sanitizing of all equipment which comes in contact with food products.

C. *Permits.*

1. *Mobile food-processing units.* If food products other than frozen dairy products are sold from these units, such operations shall be considered the same as restaurants and a permit is required as established in Section 240.080.

2. Those mobile units operating solely as street vendors and selling frozen dairy products shall obtain a permit as established under Section 605.160 of this Code.

Section 240.080. Enforcement Provisions.

A. *Permit.* It shall be unlawful for any person to operate a food-service establishment within the City who does not possess a valid permit issued to him/her by the health authority. Only a person who complies with the requirements of this Article shall be entitled to receive and retain such a

permit. Permits shall not be transferable from one person to another person or place. A valid permit shall be posted in every food-service establishment. Permits for temporary food-service establishments shall be issued for a period of time not to exceed fourteen (14) days.

B. *Issuance Of Permits.* Any person desiring to operate a food-service establishment shall make written application for a permit on forms provided by the health authority. Such application shall include: the applicant's full name and post office address and whether such applicant is an individual, firm or corporation and, if a partnership, the names of the partners, together with their addresses, shall be included; the location and type of the proposed food-service establishment; and the signature of the applicant or applicants. If the application is for a temporary food-service establishment, it shall also include the inclusive dates for the proposed operation. Under receipt of such an application, the health authority shall make an inspection of the food-service establishment to determine compliance with the provisions of this Chapter. When inspection reveals that applicable requirements of this Article have been met, a permit shall be issued to the applicant by the health authority.

C. *Suspension Of Permits.* Permits may be suspended temporarily by the health authority for failure of the holder to comply with the requirements of this Article. Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this Article, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the health authority by the permit holder. Notwithstanding the other provisions of this Article, whenever the health authority finds unsanitary or other conditions in the operation of a food-service establishment which, in his/her judgment, constitutes a substantial hazard to the public health, he/she may, without warning, notice or hearing, issue a written notice to the permit holder or operator citing such conditions, specifying the corrective action to be taken and specifying the time period within which such action shall be taken; and, if deemed necessary, such order shall state that the permit is immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith but, upon written petition to the health authority, shall be afforded a hearing as soon as possible.

D. *Reinstatement Of Suspended Permits.* Any person whose permit has been suspended may at any time make application for a reinspection for the purpose of reinstatement of the permit. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in his/her opinion the conditions causing suspension of the permit have been corrected, the health authority shall make a reinspection. If the applicant is complying with the requirements of this Article, the permit shall be reinstated.

E. *Revocation Of Permits.* For serious or repeated violations of any of the requirements of this Article or for interference with the health authority in the performance of his/her duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the health authority. Prior to such action, the health authority shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five (5) days following service of such notice unless a request for a hearing is filed with the health authority, by the permit holder, within such five (5) day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

F. *Hearings.* The hearings provided for in this Section shall be conducted by the health authority at a time and place designated by him/her. Based upon the record of such hearing, the health authority shall make a finding and shall sustain, modify or rescind any official notice or order

considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the health authority.

Section 240.090. Inspection of Food-Service Establishments.

A. *Inspections.* The health authority shall inspect each food-service establishment located in the City and shall make as many additional inspections and reinspection's as are necessary for the enforcement of this Article.

B. *Access To Establishments.* The health authority, after proper identification, shall be permitted to enter, at any reasonable time, any food-service establishment within the City for the purpose of making inspections to determine compliance with this Article. He/she shall be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received or used and persons employed.

C. *Inspection Records—Demerit Values—Demerit Scores.* Whenever the health authority makes an inspection of a food-service establishment, he/she shall record his/her findings on an inspection report form provided for this purpose and shall furnish the original of such inspection report form to the permit holder or operator. Such form shall summarize the requirements of Sections 240.020 through 240.060 of this Article and shall set forth demerit point values for each such requirement. Upon completion of an inspection, the health authority shall total the demerit point values for all requirements in violation, such total becoming the demerit score for the establishment.

D. *Issuance Of Notices.* Whenever the health authority makes an inspection of a food-service establishment and discovers that any of the requirements of Sections 240.020 through Section 240.060 of this Article have been violated, he/she shall notify the permit holder or operator of such violations by means of an inspection report form or other written notice. In such notification, the health authority shall:

1. Set forth the specific violations found, together with the demerit score of the establishment.

2. Establish a specific and reasonable period of time for the correction of the violations found in accordance with the following provisions:

    a. When the demerit score of the establishment is twenty (20) or less, all violations of two (2) or four (4) demerit points must be corrected by the time of the next routine inspection; or

    b. When the demerit score of the establishment is more than twenty (20) but not more than forty (40), all items of two (2) or four (4) demerit points must be corrected within a period of time not to exceed thirty (30) days; or

    c. When one (1) or more six (6) demerit point items are in violation, regardless of demerit score, such items must be corrected within a period of time not to exceed ten (10) days.

    d. When the demerit score of the establishment is more than forty (40), the permit is immediately suspended.

    e. In the case of temporary food-service establishments, violations must be corrected within a specified period of time not to exceed twenty-four (24) hours. Failure to comply with such notice shall result in immediate suspension of the permit.

3. State that failure to comply with any notice issued in accordance with the provisions of this Chapter may result in immediate suspension of the permit.

4. State that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the health authority within the period of time established in the notice for correction.

E. *Service Of Notices.* Notices provided for under this Section shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder. A copy of such notice shall be filed with the records of the health authority.

Section 240.100. Examination and Condemnation of Food.

Food may be examined or sampled by the health authority as often as may be necessary to determine freedom from adulteration or misbranding. The health authority may, upon written notice to the owner or person in change, place a hold order on any food which he/she determines or has probable cause to believe to be unwholesome or otherwise adulterated or misbranded. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on food by the health authority and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without permission of the health authority, except on order by a court of competent jurisdiction. After the owner or person in charge has had a hearing as provided in Section 240.090 and on the basis of evidence produced at such hearing, or on the basis of his/her examination in the event a written request for a hearing is not received within ten (10) days, the health authority may vacate the hold order, or may by written order direct the owner or person in charge of the food which was placed under the hold order to denature or destroy such food or to bring it into compliance with the provisions of this Article, provided that such order of the health authority to denature or destroy such food or bring it into compliance with the provisions of this Article shall be stayed if the order is appealed to a court of competent jurisdiction within three (3) days.

Section 240.110. Food-Service Establishments Outside Jurisdiction of Health Authority.

Food from food-service establishments outside the jurisdiction of the health authority of the City may be sold within the City if such food-service establishments conform to the provisions of this Chapter or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the health authority may accept reports from responsible authorities in other jurisdictions where such foodservice establishments are located.

Section 240.120. Plan Review of Future Construction.

When a food-service establishment is hereafter constructed or extensively remodeled or when an existing structure is converted for use as a food-service establishment, properly prepared plans and specifications for such construction, remodeling or alteration, showing layout, arrangement and construction materials of work areas and the location, size and type of fixed equipment and facilities, shall be submitted to the health authority for approval before such work is begun.

Section 240.130. Procedure When Infection Is Suspected.

A. When the health authority has reasonable cause to suspect possibility of disease transmission from any food-service establishment employee, the health authority shall secure a morbidity history of the

suspected employee or make such other investigation as may be indicated and take appropriate action. The health authority may require any or all of the following measures:

1. The immediate exclusion of the employee from all food-service establishments;
2. The immediate closure of the food-service establishment concerned until, in the opinion of the health authority, no further danger of disease outbreak exists;
3. Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease; and
4. Adequate medical and laboratory examinations of the employee, of other employees and of his/her and their bodily discharges.

Section 240.140. Domestic Animals Prohibited From Premises — Seeing-Eye Dogs Excepted.

It shall be unlawful for any person to bring into, or for any person, firm or corporation to allow, any dog, cat or other animal to enter or to keep domestic animals in any food establishment, provided however, that the provisions of this Section shall not apply to dogs which are especially trained to act as guides and companions for blind persons and are being used by blind persons for that purpose at the time of their entry upon the premises.

Section 240.150. Enforcement Interpretation.

This Article shall be enforced by the health authority in accordance with the interpretations thereof contained in the compliance provisions of the most recent edition of the "United States Public Health Service Food-Service Sanitation Ordinance and Code", which shall be on file with the Jasper County Health Department's office.

Article II. Drive-In Food and Beverage Facilities

Section 240.160. Facilities To Which Article Is Applicable — Facilities To Provide Trash Receptacles and Post Notices To Patrons.

No drive-in facility, where food or beverages are served in paper or other disposable containers, shall be operated in the City unless there shall be provided at such facility adequate covered trash receptacles and signs notifying patrons that trash shall not be disposed of on the premises except in the receptacles provided.

Section 240.170. Trash To Be Disposed of in Receptacles Therefor.

No person shall dispose of trash, disposable containers or litter in any drive-in facility except in the receptacles provided for such purpose.

Section 240.180. Duty of Operator of Facility.

No person shall operate any drive-in facility where trash or litter is on the premises except for such trash or litter as may be in the covered receptacles provided for the purpose.

Chapter 250. Illicit Discharge and Connection – Stormwater Regulations

Section 250.000. Stormwater Management Codes.

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of waterways. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in Carterville. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in Carterville.

DEFINITIONS

Unless specifically defined below, words or phrases use in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article it's most reasonable application.

Certified Contractor: A person who has received training and is licensed by the City of Carterville to inspect and maintain erosion and sediment control practices.

Clearing: Any activity that removes the vegetative surface cover.

Drainage Way: Any channel that conveys surface runoff throughout the site.

Erosion Control: A measure that prevents erosion.

Erosion and Sediment Control Plan: A set of plans prepared by or under the direction of a licensed professional engineer. Indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

Grading: Excavation of fill of material, including the resulting conditions thereof.

Grading Permit: A permit issued by the City of Carterville for the construction or alteration of ground. Improvements and structures for the control of erosion, runoff, and grading.

Perimeter Control: A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Phasing: clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Sediment Control: Measures that prevent eroded sediment from leaving the site.

Site: A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

Stabilization: The use of practices that prevent exposed soil from eroding.

Start of Construction: The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Watercourse: Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the City of Carterville.

Waterway: A channel that directs surface runoff to a watercourse or to the public storm drain.

PERMITS

A. A grading permit shall be required for any clearing, grading, filling, or construction activities that result in the following:

   1. Land disturbance of greater than or equal to one (1) acre, or
   2. Land disturbance of less than one (1) acre, if that activity is part of a larger common plan of development or sale that would disturb a total of one acre or more

B. No grading permit is required for the following activities:

   1. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
   2. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

C. Application requirements are listed in the City of Carterville Stormwater Management Criteria.

REVIEW AND APPROVAL

A. The City of Carterville will review each application for a grading permit to determine its conformance with the provisions of this regulation. Within 45 days after receiving an application the City of Carterville shall, in writing:

   1. Approve the permit application;
   2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or,
   3. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

B. Failure of the City of Carterville to act on an original or revised application within 45 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is

extended by agreement between the applicant and the City of Carterville. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City of Carterville.

EROSION AND SEDIMENT CONTROL PLAN

A. The Erosion and Sediment Control Plan shall comply with the Sediment and Erosion Control Plan section of the City of Carterville Stormwater Management Criteria.
B. Modifications to the plan shall be processed and approved or disapproved by the City of Carterville by written authorization to the permittee, and shall include;

1. Major amendments of the erosion and sediment control plan submitted to the City of Carterville.
2. Field modifications of a minor nature.

DESIGN REQUIREMENTS

A. Grading, erosion control practices, sediment control practices, and waterway crossing shall meet the design criteria set forth in the most recent version of the City of Carterville Stormwater Management Criteria, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City of Carterville.

INSPECTION

A. A The City of Carterville, or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating and filling work bearing the stamp of approval of the City of Carterville shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the City of Carterville at least 24 hours before the following:

1. Start of construction.
2. Installation of sediment and erosion measures.
3. Completion of site clearing.
4. Completion of rough grading.
5. Completion of final grading.
6. Close of the construction season.
7. Completion of final landscaping.

B. The permittee of his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the City of Carterville at the time interval specified in the approved permit.

C. The City of Carterville or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports under paragraph B above.

ENFORCEMENT

A. Stop-Work Order; Revocation of Permit.

In the event that any person holding a grading permit pursuant to this Article violates the terms of the permit or implement site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City of Carterville may suspend or revoke the grading permit.

B. Violations and Penalties.

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this Article. Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this Article is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than five hundred dollars ($500.00) for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this Article shall be required to bear the expense of such restoration.

Section 250.010. Purpose — Intent.

A. The purpose of this Chapter is to provide for the health, safety and general welfare of the citizens of the Carterville, Missouri, through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by Federal and State law. This Chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Chapter are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
2. To prohibit illicit connections and discharges to the municipal separate storm sewer system; and
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter.

Section 250.020. Definitions.

For purposes of this Chapter, the following shall mean:

BEST MANAGEMENT PRACTICES (BMP)

Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or

stormwater conveyance systems. BMP also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal or drainage from raw materials storage.

CLEAN WATER ACT

The Federal Water Pollution Control Act (33 U.S.C. Sections 1251, et seq.) and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY

Activities subject to NPDES construction permits. NPDES Stormwater Phase II permits will be required for construction projects resulting in land disturbance of one (1) acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

HAZARDOUS MATERIALS

Any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

ILLEGAL DISCHARGE

Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 250.070(B) of this Chapter.

ILLICIT CONNECTIONS

An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any no stormwater discharge including sewage, process wastewater and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by the City; or

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by the City.

INDUSTRIAL ACTIVITY

Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26(b)(14).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT

A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC Section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

NON-STORMWATER DISCHARGE

Any discharge to the storm drain system that is not composed entirely of stormwater.

OBSTRUCTION

A thing that impedes or prevents passage or progress; an obstacle or blockage

PERSON

Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT

Anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES

Any building, lot, parcel of land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM

Publicly-owned facilities by which stormwater is collected and/or conveyed including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

STORM WATER POLLUTION PREVENTION PLAN

A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems and/or receiving waters to the maximum extent practicable.

STORMWATER

Any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

WASTEWATER

Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Section 250.030. Applicability.

This Chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City.

Section 250.040. Responsibility For Administration.

The City shall administer, implement and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the City may be delegated in writing by the City Council to persons or entities acting in the beneficial interest of or in the employ of the agency.

Section 250.050. Severability.

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

Section 250.060. Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; therefore, this Chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

Section 250.070. Discharge Prohibitions.

A. *Prohibition Of Illegal Discharges.* No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

B. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this Chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active ground water dewatering systems), crawl space pumps, air-conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if de-chlorinated—typically less than one (1) PPM chlorine), fire-fighting activities and any other water source not containing pollutants.

2. Discharges specified in writing by the City as being necessary to protect public health and safety.

3. Dye testing is an allowable discharge, but requires a verbal notification to the City prior to the time of the test.

4. The prohibition shall not apply to any non-stormwater discharge permitted under a NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency; provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations and provided that written approval has been granted for any discharge to the storm drain system.

C. *Prohibition Of Illicit Connections.*

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is considered to be in violation of this Chapter if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

Section 250.080. Suspension of MS4 Access.

A. *Suspension Due To Illicit Discharges In Emergency Situations.* The City may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment or to the health or welfare of persons or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States or to minimize danger to persons.

B. *Suspension Due To The Detection Of Illicit Discharge.*

1. Any person discharging to the MS4 in violation of this Chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its MS4 access. The violator may petition the City for a reconsideration and hearing.

2. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section without the prior written approval of the City.

Section 250.090. Industrial or Construction Activity Discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City prior to the allowing of discharges to the MS4.

Section 250.095. Causing Obstruction in Storm Water Flow.

No person, business, or industry shall obstruct or cause to be obstructed any stormwater drainage ditch, street gutter, or culvert within the city. Any materials placed within the drainage, organic or otherwise which may alter or reduce the flow of storm water are prohibited.

Section 250.100. Monitoring of Discharges.

A. *Applicability.* This Section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

B. *Access To Facilities.*

1. The City shall be permitted to enter and inspect facilities subject to regulation under this Chapter as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City.

2. Facility operators shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the

conditions of an NPDES permit to discharge stormwater and the performance of any additional duties as defined by State and Federal law.

3. The City shall have the right to set up on any permitted facility such devices as are necessary, in the opinion of the City, to conduct monitoring and/or sampling of the facility's stormwater discharge.

4. The City has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated annually to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing the City access to a permitted facility is a violation of a stormwater discharge permit and of this Chapter. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Chapter.

7. If the City has been refused access to any part of the premises from which stormwater is discharged and he/she is able to demonstrate probable cause to believe that there may be a violation of this Chapter or that there is a need to inspect and/or sample as part of a routine inspection and sampling programs designed to verify compliance with this Chapter or any order issued hereunder or to protect the overall public health, safety and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

Section 250.110. Requirement To Prevent, Control and Reduce Stormwater Pollutants By The Use of Best Management Practices.

A. The City will adopt requirements identifying Best Management Practices for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMP.

B. Any person responsible for a property or premises which is or may be the source of an illicit discharge may be required to implement, at said person's expense, additional structural and non-structural BMP to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this Section.

C. These BMP shall be part of a Storm Water Management Plan (SWMP) necessary for compliance with requirements of the NPDES permit and a copy shall be maintained in the Public Works

Director's office at the Public Works Department. The city shall update, as needed, the six minimum control measures below to ensure BMP are being followed.

1. Public education and outreach
2. Public involvement and participation
3. Illicit discharge detection and elimination
4. Construction site storm water runoff control
5. Post construction storm water management in new development and redevelopment
6. Pollution prevention and good housekeeping for municipal operations

Section 250.120. Watercourse Protection.

Every person owning property through which a watercourse passes or such person's lessee shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

Section 250.130. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system or water of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

Section 250.140. Enforcement.

A. *Notice Of Violation.* Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, the City may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analyses and reporting;
2. The elimination of illicit connections or discharges;
3. Violating discharges, practices or operations shall cease and desist;

4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

5. Payment of a fine to cover administrative and remediation costs; and

6. The implementation of source control or treatment BMP.

B. If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Section 250.150. Appeal of Notice of Violation.

Any person receiving a notice of violation may appeal the determination of the City. The notice of appeal must be received within ten (10) days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

Section 250.160. Enforcement Measures After Appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation or in the event of an appeal within thirty (30) days of the decision of the municipal authority upholding the decision of the City, then representatives of the City shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

Section 250.170. Cost of Abatement of The Violation.

A. Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days. If the amount due is not paid within a timely manner, as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

B. Any person violating any of the provisions of this Section shall become liable to the City by reason of such violation.

Section 250.180. Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter. If a person has violated or continues to violate the provisions of this Chapter, the City may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Section 250.190. Compensatory Action.

In lieu of enforcement proceedings, penalties and remedies authorized by this Chapter, the City may impose upon a violator alternative compensatory action such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Section 250.200. Violations Deemed A Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist, which is in violation of any of the provisions of this Chapter and is a threat to public health, safety and welfare and is declared and deemed a nuisance, may be summarily abated or restored at the violator's expense and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

Section 250.210. Criminal Prosecution.

Any person that has violated or continues to violate this Chapter shall be liable to criminal prosecution to the fullest extent of the law. The City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses.

Section 250.220. Remedies Not Exclusive.

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable Federal, State or local law and it is within the discretion of the City to seek cumulative remedies.

Chapter 300. Traffic Code

Article I. General Provisions

Section 300.010. Definitions.

The following words and phrases, when used in this Title, mean:

ALLEY OR ALLEYWAY

Any street with a roadway of less than twenty (20) feet in width.

ALL-TERRAIN VEHICLE (ATV)

A quad, three-wheeler, four-track, four-wheeler, or quadricycle, as defined by the American National Standards Institute (ANSI) is a vehicle that travels on low-pressure tires, with a seat that is straddled by the operator, along with handlebars for steering control. ATVs are generally intended for use by a single operator.

AUTHORIZED EMERGENCY VEHICLE

A vehicle publicly owned and operated as an ambulance, or a vehicle publicly owned and operated by the State Highway Patrol, Police or Fire Department, Sheriff, Constable or Deputy Sheriff, Traffic Officer, or any privately owned vehicle operated as an ambulance when responding to emergency calls.

BUSINESS DISTRICT

The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes including, but not limited to, hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway.

COMMERCIAL VEHICLE

Every vehicle designed, maintained or used primarily for the transportation of property.

CONTROLLED ACCESS HIGHWAY

Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

CROSSWALK

1. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway;

2. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

CURB LOADING ZONE

A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

DRIVER

Every person who drives or is in actual physical control of a vehicle.

FREIGHT CURB LOADING ZONE

A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight (or passengers)

GOLFCART

A small motorized vehicle generally used for golfers and their equipment and is not capable of exceeding 20 miles per hour on level terrain.

HIGHWAY

The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

INTERSECTION

1. The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;

2. Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.

LANED ROADWAY

A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

MOTOR VEHICLE

Any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

MOTORCYCLE

Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

MOTORIZED BICYCLE

Any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty (50) cubic centimeters, which produces less than three (3) gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty

(30) miles per hour on level ground.

OFFICIAL TIME STANDARD

Whenever certain hours are named herein, they shall mean standard time or daylight-saving time as may be in current use in the City.

OFFICIAL TRAFFIC CONTROL DEVICES

All signs, signals, markings and devices not inconsistent with this Title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

PARK OR PARKING

The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

PASSENGER CURB LOADING ZONE

A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

PEDESTRIAN

Any person afoot.

PERSON

Every natural person, firm, co-partnership, association or corporation.

POLICE OFFICER

Every officer of the municipal Police Department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

PRIVATE ROAD OR DRIVEWAY

Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons.

RAILROAD

A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

RAILROAD TRAIN

A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

RESIDENCE DISTRICT

The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business.

RIGHT-OF-WAY

The right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

ROADWAY

That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways, the term *"roadway"* as used herein shall refer to any such roadway separately but not to all such roadways collectively.

SAFETY ZONE

The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

SIDEWALK

That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for use of pedestrians.

STAND OR STANDING

The halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

STOP

When required, complete cessation from movement.

STOP OR STOPPING

When prohibited, any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a Police Officer or traffic control sign or signal.

STREET OR HIGHWAY

The entire width between the lines of every way publicly maintained when any part thereof is open to the uses of the public for purposes of vehicular travel. *"State highway",* a highway maintained by the State of Missouri as a part of the State highway system.

THROUGH HIGHWAY

Every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on such through highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this Title.

TRAFFIC

Pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

TRAFFIC CONTROL SIGNAL

Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

TRAFFIC DIVISION

The Traffic Division of the Police Department of the City or, in the event a Traffic Division is not established, then said term whenever used herein shall be deemed to refer to the Police Department of the City.

UTV

A multipurpose off-highway utility vehicle (MOHUV) is a vehicle designed with(a) four or more wheels, (b) a steering wheel, (c) non-straddle seating. In addition, MOHUVs have foot controls for

throttle and braking, occupant restraints, and rollover protective structures and is not capable of exceeding 30 miles per hour on level terrain.

VEHICLE

Any mechanical device on wheels designed primarily for use or used on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, cotton trailers, or motorized wheelchairs operated by handicapped persons.

Chapter 305. Traffic Administration

Section 305.010. Records of Traffic Violations.

A. The Police Department shall keep a record of all violations of the traffic ordinances of the City or of the State vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall be so maintained as to show all types of violations and the total of each. Said record shall accumulate during at least a five (5) year period and from that time on the record shall be maintained complete for at least the most recent five (5) year period.

B. All forms for records of violations and notices of violations shall be serially numbered. For each month and year, a written record shall be kept available to the public showing the disposal of all such forms.

C. All such records and reports shall be public records.

Section 305.020. Police Department To Investigate Accidents.

It shall be the duty of the Police Department to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

Section 305.030. Traffic Accident Reports.

The Police Department shall maintain a suitable system of filing traffic accident reports. Such reports shall be available for the use and information of the City Traffic Engineer.

Section 305.040. Driver Files To Be Maintained.

The Police Department shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.

Section 305.050. Police Department To Submit Annual Traffic Safety Report.

A. The Police Department shall annually prepare a traffic report which shall be filed with the Mayor. Such report shall contain information on traffic matters in the City as follows:

1. The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data.

2. The number of traffic accidents investigated and other pertinent data on the safety activities of the Police.

3. The plans and recommendations of the Police Department for future traffic safety activities.

Section 305.060. City Traffic Engineer.

A. The office of City Traffic Engineer is established. The Public Works Director or other designated City Official may, with certain limitations, serve as City Traffic Engineer in the absence of a hired or contracted engineer firm.

B. The City Traffic Engineer shall determine the installation and proper timing and maintenance of traffic control devices, conduct engineering analyses of traffic accidents and devise remedial measures, conduct engineering investigation of traffic conditions, plan the operation of traffic on the streets and highways of the City, and cooperate with other City Officials in the development of ways and means to improve traffic conditions, and carry out the additional powers and duties imposed by ordinances of the City.

Section 305.070. Emergency and Experimental Regulations.

A. The Chief of Police by and with the approval of the City Traffic Engineer is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of the City and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.

B. The City Traffic Engineer may test traffic control devices under actual conditions of traffic.

Chapter 310. Enforcement and Obedience To Traffic Regulations

Section 310.010. Authority of Police and Fire Department Officials.

A. It shall be the duty of the officers of the Police Department or such officers as are assigned by the Chief of Police to enforce all traffic laws of the City and all of the State vehicle laws applicable to traffic in the City.

B. Officers of the Police Department or such officers as are assigned by the Chief of Police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

C. Officers of the Fire Department, when at the scene of an incident, may direct or assist the Police in directing traffic thereat or in the immediate vicinity.

Section 310.020. Obedience To Police and Fire Department Officials.

No person shall knowingly fail or refuse to comply with any lawful order or direction of a Police Officer or Fire Department official.

Section 310.030. Persons Propelling Pushcarts or Riding Animals To Obey Traffic Regulations.

Every person propelling any pushcart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this Title applicable to the driver of any vehicle, except those provisions of this Title which by their very nature can have no application.

Section 310.040. Use of Coasters, Roller Skates and Similar Devices Restricted.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, skateboard or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This Section shall not apply upon any street while set aside as a play street as authorized by ordinance of the City.

Section 310.050. Public Employees To Obey Traffic Regulations.

The provisions of this Title shall apply to the driver of any vehicle owned by or used in the service of the United States Government, this State, County or City and it shall be unlawful for any said driver to violate any of the provisions of this Title, except as otherwise permitted in this Title.

Section 310.060. Authorized Emergency Vehicles — Permitted Acts of Drivers.

A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this Section, but subject to the conditions herein stated.

B. The driver of an authorized emergency vehicle may:

1. Park or stand, irrespective of the provisions of this Title;

2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

3. Exceed the maximum speed limits so long as he/she does not endanger life or property; and

4. Disregard regulations governing direction of movement or turning in specified directions.

C. The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle while in motion sounds audible signal by siren or while having at least one (1) lighted lamp exhibiting a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle or a flashing blue light authorized by Section 310.080.

D. The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his/her reckless disregard for the safety of others.

Section 310.070. Operation of Vehicles On Approach of Authorized Emergency Vehicles – Moving or Stationary.

A. Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this State, or of a Police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a Police Officer.

B. Upon approaching a stationary *emergency vehicle* displaying lighted red or red and blue lights, the driver of every motor *vehicle* shall proceed with caution and yield the right-of-way, if possible with

due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary *vehicle*, if on a roadway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching *vehicle*; or proceed with due caution and reduce the speed of the *vehicle*, maintaining a safe speed *for* road conditions, if changing lanes would be unsafe or impossible.

C. This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

Section 310.080. Sirens and Flashing Lights Emergency Use — Persons Authorized — Violation — Penalty.

Motor vehicles and equipment, not otherwise defined in this Title as an authorized emergency vehicle, which are operated by any member of an organized Fire Department, ambulance association or rescue squad, whether paid or volunteer, may be operated on streets and highways in this City as an emergency vehicle under the provisions of Section 304.022, RSMo., while responding to a fire call or ambulance call or at the scene of a fire call or ambulance call and while using or sounding a warning siren and using or displaying thereon fixed, flashing or rotating blue lights, but sirens and blue lights shall be used only in bona fide emergencies. Permits for the operation of such vehicles equipped with sirens or blue lights shall be in writing and shall be issued and may be revoked by the Chief of an organized Fire Department, organized ambulance association or rescue squad and no person shall use or display a siren or rotating blue lights on a motor vehicle, fire, ambulance or rescue equipment without a valid permit authorizing the use. Permit to use a siren or lights as heretofore set out does not relieve the operator of the vehicle so equipped with complying with all other traffic laws and regulations. Violation of this Section constitutes an ordinance violation.

Section 310.090. Immediate Notice of Accident Within City.

The driver of a vehicle involved in an accident within the City resulting in injury to or death of any person or total property damage to an apparent extent of five hundred dollars ($500.00) or more to one (1) person shall give or cause to be given notice of such accident to the Police Department as soon as reasonably possible.

Section 310.100. Written Report of Accident.

The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of five hundred dollars ($500.00) or more to one (1) person shall, within five (5) days after such accident, forward a written report of such accident to the Police Department. The provisions of this Section shall not be applicable when the accident has been investigated at the scene by a Police Officer while such driver was present thereat.

Section 310.110. When Driver Unable To Report.

A. Whenever the driver of a vehicle is physically incapable of giving immediate notice of an accident as required in Section 310.090 and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give or cause to be given the notice not given by the driver.

B. Whenever the driver is physically incapable of making a written report of an accident as required in Section 310.100 and such driver is not the owner of the vehicle, then the owner of the

vehicle involved in such accident shall, within five (5) days after the accident, make such report not made by the driver.

Section 310.120. Leaving The Scene of A Motor Vehicle Accident.

A. A person commits the offense of leaving the scene of a motor vehicle accident when, being the operator or driver of a vehicle on the highways, streets or roads of the City or on any publicly or privately owned parking lot or parking facility within the City generally open for use by the public and knowing that an injury has been caused to a person or damage has been caused to property due to his/her culpability or to accident, he/she leaves the place of the injury, damage or accident without stopping and giving his/her name, residence, including City and street number, motor vehicle number and driver's license number, if any, to the injured party or to a Police Officer, or if no Police Officer is in the vicinity, then to the nearest Police station or judicial officer.

B. For the purposes of this Section, all Peace Officers shall have jurisdiction, when invited by an injured person, to enter the premises of any such privately owned parking lot or parking facility for the purpose of investigating an accident and performing all necessary duties regarding such accident.

Chapter 315. Traffic Control Devices

Section 315.010. Authority To Install Traffic Control Devices.

The City Traffic Engineer shall place and maintain traffic control signs, signals and devices when and as required under the traffic ordinances of the City to make effective the provisions of said ordinances and may place and maintain such additional traffic control devices as he/she may deem necessary to regulate traffic under the traffic ordinances of the City or under State law or to guide or warn traffic.

Section 315.020. Manual and Specifications For Traffic Control Devices.

All traffic control signs, signals and devices shall conform to the manual and specifications approved by the State Highways and Transportation Commission or resolution adopted by the City Council of the City. All signs or signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the City. All traffic control devices so erected and not inconsistent with the provisions of this Title shall be official traffic control devices.

Section 315.030. Obedience To Traffic Control Devices.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this Title, unless otherwise directed by a traffic or Police Officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this Title. This shall include any temporary traffic controls or construction zone signage such as lane closures, barricades, and direction by use of traffic cones.

Section 315.040. When Official Traffic Control Devices Required For Enforcement Purposes.

No provision of this Title for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular Section does not state that official traffic control devices are required, such Section shall be effective even though no devices are erected or in place.

Section 315.050. Official Traffic Control Devices — Presumption of Legality.

A. Whenever official traffic control devices are placed in position approximately conforming to the requirements of this Title, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

B. Any official traffic control device placed pursuant to the provisions of this Title and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this Title, unless the contrary shall be established by competent evidence.

Section 315.060. Traffic Control Signal Legend — Right Turn On Red Light — When.

A. Whenever traffic is controlled by traffic control signals exhibiting different colored lights or colored lighted arrows, successively one (1) at a time or in combination, only the colors green, red and yellow shall be used except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

1. *Green indication.*

   a. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

   b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

   c. Unless otherwise directed by a pedestrian control signal as provided in Section 315.070, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

2. *Steady yellow indication.*

   a. Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

   b. Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian control signal as provided in Section 315.070, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

3. *Steady red indication.*

   a. Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown except as provided in paragraph (b) of this Subsection.

b. The driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red signal may cautiously enter the intersection to make a right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that the State Highways and Transportation Commission with reference to an intersection involving a State highway, and local authorities with reference to an intersection involving other highways under their jurisdiction, may prohibit any such right turn against a red signal at any intersection where safety conditions so require, said prohibition shall be effective when a sign is erected at such intersection giving notice thereof.

c. Unless otherwise directed by a pedestrian control signal as provided in Section 315.070, pedestrians facing a steady red signal alone shall not enter the roadway.

4. In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this Section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal.

Section 315.070. Pedestrian Control Signals.

A. Whenever special pedestrian control signals exhibiting the words *"Walk"* or *"Don't Walk"* or appropriate symbols are in place, such signals shall indicate as follows:

1. *"WALK":* Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

2. *"WAIT"* or *"DON'T WALK":* No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his/her crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

Section 315.080. Flashing Signals.

A. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

1. *Flashing red (stop signal).* When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

2. *Flashing yellow (caution signal).* When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

B. This Section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in Section 335.090 of this Title.

Section 315.090. Lane Direction Control Signals.

When lane direction control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green signal is shown but shall not enter or travel in any lane over which a red signal is shown.

Section 315.100. Display of Unauthorized Signs, Signals or Markings.

No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

Section 315.110. Interference With Official Traffic Control Devices or Railroad Signs or Signals.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon or any other part thereof.

Section 315.120. Authority To Establish Play Streets.

The City Council shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.

Section 315.130. Play Streets.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

Section 315.140. City Traffic Engineer To Designate Crosswalks and Establish Safety Zones.

A. The City Traffic Engineer is hereby authorized:

1. To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his/her opinion there is particular danger to pedestrians crossing the roadway and at such other places as he/she may deem necessary.

2. To establish safety zones of such kind and character and at such places as he/she may deem necessary for the protection of pedestrians.

Section 315.150. Traffic Lanes.

A. The City Traffic Engineer is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

B. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

Chapter 320. Speed Regulations

Section 320.010. State Speed Laws Applicable.

The State traffic laws regulating the speed of vehicles shall be applicable upon all streets within the City, except that the City may by ordinance declare and determine upon the basis of engineering and traffic investigation that certain speed regulations shall be applicable upon specified streets or in certain areas, in which event it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared when signs are in place giving notice thereof.

Section 320.020. Regulation of Speed By Traffic Signals.

The City Traffic Engineer is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof.

Section 320.030. General Speed Limit.

Except where otherwise provided by signs erected pursuant to duly passed and approved ordinances, no person shall operate a vehicle on any street in the City in excess of twenty-five (25) miles per hour.

Section 320.040. Slow Speed — Regulations.

No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law. Peace Officers may enforce the provisions of this Section by directions to drivers, and in the event of apparent willful disobedience to this provision and refusal to comply with direction of an officer in accordance herewith, the continued slow operation by a driver is an ordinance violation.

Section 320.050. Construction Zones Established.

A. For the purposes of this section the term "*construction zone*" or “work zone” shall mean any section of road way under city jurisdiction where *construction* or major maintenance operations are being affected.

B. Any such "*construction zone*" shall be designated by posting a sign indicating the presence of *construction* or major maintenance work and the maximum *speed* limit within that section of roadway under *construction* or maintenance.

C. All vehicles entering a "*construction zone*" shall proceed at a *speed* not to exceed 20 miles per hour until clearing the *zone*. However, the director of the public works department is hereby authorized and empowered to fix a lower *speed* if in his discretion he reasonably believes that a certain section of roadway due to its characteristics or the nature of the maintenance or *construction* work creates an increased danger to the public or to *construction* workers.

Those areas designated by signage as a “construction zone” or “work zone” will have zero tolerance to exceeding the posted speed limit. In cases where the speed limit has been posted as a reduced limit,

zero tolerance for exceeding the limit will also be enforced. At the discretion of the municipal court fines may be doubled for speed violations in construction zones.

Section 320.055. Speed Limits Reduced in School Zones.

Those areas designated in Schedule I, Table 1-B as school zones shall have reduced speed limits at certain times of day. Reduced speeds will be indicated by signage or signal to indicate that the reduced speed is required.

Table 1-B. Designated School Zones.

Street School Zones Speed Limit

Main Street Between Kentucky Street and Pine Street 20mph

Tennessee Street from Main Street North to Poplar Street 20mph

Pine Street From Main Street North to Poplar Street 20mph

Chapter 325. Turning Movements

Section 325.010. Required Position and Method of Turning At Intersection.

A. The driver of a vehicle intending to turn at an intersection shall do so as follows:

1. *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway, except where multiple turn lanes have been established.

2. *Left turns on two-way roadways.* At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right-half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

3. *Left turns on other than two-way roadways.* At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered, except where multiple turn lanes have been established.

4. *Designated two-way left turn lanes.* Where a special lane for making left turns by drivers proceeding in opposite directions have been indicated by official traffic control devices:

   a. A left turn shall not be made from any other lane;

b. A vehicle shall not be driven in the lane except when preparing for or making a left turn from or into the roadway or when preparing for or making a U-turn when otherwise permitted by law; and

c. A vehicle shall not be driven in the lane for a distance more than five hundred (500) feet.

Section 325.020. Authority To Place and Obedience To Turning Markers.

A. The City Traffic Engineer is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.

B. When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

Section 325.030. Authority To Place Restricted Turn Signs.

The City Traffic Engineer is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

Section 325.040. Obedience To No-Turn Signs.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

Section 325.050. Limitations On Turning Around.

A. It shall be unlawful for the driver of any vehicle to *turn* such vehicle so as to proceed in the opposite direction at any intersection controlled by a traffic signal or police officer, nor shall such *turn* be made at any place unless the movement can be made in safety and without interfering with other traffic. The driver of a vehicle shall not *turn* such vehicle around so as to proceed in the opposite direction upon any curve or upon the approach to or near the crest of a grade.

B. No vehicle may at any place upon a roadway make a U-turn within a distance of 300 feet of any intersection, or where the *turning* may create a traffic hazard.

C. No vehicle in a residence district shall be *turned* left across the roadway or so as to proceed in the opposite direction when any other vehicle is approaching from either direction where the *turning* may create a traffic hazard.

D. It shall be unlawful for any driver or operator of any vehicle to make any *U-turn* at any controlled intersection.

E. It shall be unlawful for any driver or operator of any vehicle to make a *U-turn* when such *turn* cannot be made in safety or without interference to moving traffic.

F. The provisions of section (A) (1 - 5) shall not apply to the operators of departmental owned Police, Fire, Utility services and Ambulance vehicles.

Chapter 330. One-Way Streets and Alleys

Section 330.010. Authority To Sign One-Way Streets and Alleys.

Whenever any ordinance of the City designates any one-way street or alley, the City Traffic Engineer shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

Section 330.020. One-Way Streets and Alleys.

Upon those streets and parts of streets and in those alleys described and designated by ordinance, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

Section 330.030. Authority To Restrict Direction of Movement On Streets During Certain Periods.

A. The City Traffic Engineer is hereby authorized to determine and designate streets, parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one (1) direction during one (1) period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The City Traffic Engineer may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway.

B. It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this Section.

Chapter 335. Stop and Yield Intersections, Railroad Crossing

Section 335.010. Through Streets Designated.

Those streets and parts of streets described by ordinances of the City are declared to be through streets for the purposes of Sections 335.010 to 335.090.

Section 335.020. Signs Required At Through Streets.

Whenever any ordinance of the City designates and describes a through street, it shall be the duty of the City Traffic Engineer to place and maintain a stop sign, or on the basis of an engineering and traffic investigation at any intersection a yield sign, on each and every street intersecting such through street unless traffic at any such intersection is controlled at all times by traffic control signals; provided however, that at the intersection of two (2) such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of said streets as may be determined by the City Traffic Engineer upon the basis of an engineering and traffic study.

Section 335.030. Other Intersections Where Stop or Yield Required.

The City Traffic Engineer is hereby authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine whether vehicles shall stop at one (1) or more entrances to any such intersection in which event he/she shall cause to be erected a stop sign at every such place where a stop is required, or whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection as prescribed in Subsection (A) of Section 335.040 in which event he/she shall cause to be erected a yield sign at every place where obedience thereto is required.

Section 335.040. Stop and Yield Signs.

A. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

B. Except when directed to proceed by a Police Officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

Section 335.050. Vehicle Entering Stop Intersection.

Except when directed to proceed by a Police Officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by Subsection (B) of Section 335.040 and after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

Section 335.060. Vehicle Entering Yield Intersection.

The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection; provided however, that if such a driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his/her failure to yield right-of-way.

Section 335.070. Emerging From Alley, Driveway or Building.

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

Section 335.080. Stop When Traffic Obstructed.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he/she is operating without

obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

Section 335.090. Obedience To Signal Indicating Approach of Train.

A. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this Section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed until he/she can do so safely. The foregoing requirements shall apply when:

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train; or

3. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

B. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

C. No person shall drive a vehicle through a railroad crossing when there is not sufficient space to drive completely through the crossing.

D. No person shall drive a vehicle through a railroad crossing unless such vehicle has sufficient undercarriage clearance necessary to prevent the undercarriage of the vehicle from contacting the railroad crossing.

E. Every commercial motor vehicle as defined in Section 302.700, RSMo., shall, upon approaching a railroad grade crossing, be driven at a rate of speed which will permit said commercial motor vehicle to be stopped before reaching the nearest rail of such crossing and shall not be driven upon or over such crossing until due caution has been taken to ascertain that the course is clear. This Section does not apply to vehicles which are required to stop at railroad crossings pursuant to Section 304.030, RSMo.

Chapter 340. Miscellaneous Driving Rules

Section 340.010. Following Emergency Vehicle Prohibited.

The driver of any vehicle other than one on official business shall not follow any emergency vehicle traveling in response to an emergency call closer than five hundred (500) feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

Section 340.020. Funeral Processions.

A. *Definitions.* As used in this Section, the following terms shall mean:

FUNERAL DIRECTOR

A person licensed as a funeral director pursuant to the provisions of Chapter 333, RSMo.

FUNERAL LEAD VEHICLE OR LEAD VEHICLE

Any motor vehicle equipped with at least one (1) lighted circulating lamp exhibiting an amber or purple light or lens or alternating flashing headlamps visible under normal atmospheric conditions for a distance of five hundred (500) feet from the front of the vehicle. A hearse or coach properly equipped may be a lead vehicle.

ORGANIZED FUNERAL PROCESSION

Two (2) or more vehicles accompanying the remains of a deceased person from a funeral establishment, church, synagogue or other place where a funeral service has taken place to a cemetery, crematory or other place of final disposition or a funeral establishment, church, synagogue or other place where additional funeral services will be performed if directed by a licensed funeral director from a licensed establishment.

B. *Driving Rules.*

1. Except as otherwise provided for in this Section, pedestrians and operators of all other vehicles shall yield the right-of-way to any vehicle which is a part of an organized funeral procession.

2. Notwithstanding any traffic control device or right-of-way provision prescribed by State or local law, when the funeral lead vehicle in an organized funeral procession lawfully enters an intersection, all vehicles in the procession shall follow the lead vehicle through the intersection. The operator of each vehicle in the procession shall exercise the highest degree of care toward any other vehicle or pedestrian on the roadway.

3. An organized funeral procession shall have the right-of-way at all intersections regardless of any traffic control device at such intersections, except that operators of vehicles in an organized funeral procession shall yield the right-of-way to any approaching emergency vehicle pursuant to the provisions of law or when directed to do so by a Law Enforcement Officer.

4. All vehicles in an organized funeral procession shall follow the preceding vehicle in the procession as closely as is practical and safe under the conditions.

5. No person shall operate any vehicle as part of an organized funeral procession without the flashing emergency lights of such vehicle being lighted.

6. Any person who is not an operator of a vehicle in an organized funeral procession shall not:

    a. Drive between the vehicles comprising an organized funeral procession while such vehicles are in motion and have the flashing emergency lights lighted pursuant to Subsection (B)(5) above, except when required to do so by a Law Enforcement Officer or when such person is operating an emergency vehicle giving an audible or visual signal;

    b. Join a funeral procession for the purpose of securing the right-of-way; or

    c. Attempt to pass any vehicle in an organized funeral procession, except where a passing lane has been specifically provided.

7. When an organized funeral procession is proceeding through a red signal light as permitted herein, a vehicle not in the organized funeral procession shall not enter the intersection unless such vehicle may do so without crossing the path of the funeral procession.

8. No ordinance, regulation or any other provision of law shall prohibit the use of a motorcycle utilizing flashing amber lights to escort an organized funeral procession on the highway.

C. Any person convicted of violating any provision of this Section shall be punished by a fine not to exceed one hundred dollars ($100.00).

Section 340.030. Driving in Procession.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe.

Section 340.040. When Permits Required For Parades and Processions.

No funeral, procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles except the forces of the United States Army or Navy, the military forces of this State, and the forces of the Police and Fire Departments shall occupy, march or proceed along any street except in accordance with a permit issued by the Chief of Police and such other regulations as are set forth herein which may apply.

Section 340.050. Vehicle Shall Not Be Driven On A Sidewalk — Prohibition On Obstruction of Bicycle Lanes — Drivers To Yield To Bicycles in Designated Bicycle Lanes.

The driver of a motor vehicle shall not drive within any sidewalk area except on a permanent or temporary driveway. A designated bicycle lane shall not be obstructed by a parked or standing motor vehicle or other stationary object. A motor vehicle may be driven in a designated bicycle lane only for the purpose of a lawful maneuver to cross the lane or to provide for safe travel. In making an otherwise lawful maneuver that requires traveling in or crossing a designated bicycle lane, the driver of a motor vehicle shall yield to any bicycle in the lane. As used in this Section, the term *"designated bicycle lane"* shall mean a portion of the roadway or highway that has been designated by the Governing Body having jurisdiction over such roadway or highway by striping with signing or striping with pavement markings for the preferential or exclusive use of bicycles.

Section 340.060. Limitations On Backing.

The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

Section 340.070. Opening and Closing Vehicle Doors.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

Section 340.080. Riding On Motorcycles — Additional Passenger — Requirements.

A. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons or upon another seat firmly attached to the rear or side of the operator.

B. The operator of a motorized bicycle shall ride only astride the permanent and regular seat attached thereto and shall not permit more than one (1) person to ride thereon at the same time, unless the motorized bicycle is designed to carry more than one (1) person. Any motorized bicycle designed to carry more than one (1) person must be equipped with a passenger seat and footrests for the use of a passenger.

Section 340.090. Motorcycle Regulations.

A. The following regulations apply to all motorized bicycles, motorized tricycles, dune buggies and motorized go-carts and term motorcycle, as used in this Section, shall include all of the above:

1. No person shall be allowed to ride a motorcycle on City property except on the improved and authorized streets, roads and highways.

2. Operators of motorcycles shall comply with all applicable City ordinances and State Statutes governing motor vehicles; and both operator and motorcycle must be properly licensed.

Section 340.100. Riding Bicycle On Sidewalks — Limitations — Motorized Bicycles Prohibited.

A. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

B. No person shall ride a motorized bicycle upon a sidewalk.

Section 340.110. All-Terrain Vehicles — Prohibited — Exceptions — Operation Under An Exception — Prohibited Uses — Penalty.

A. No person shall operate an all-terrain vehicle, as defined in Section 300.010, upon the streets and highways of this City, except as follows:

1. All-terrain vehicles owned and operated by a governmental entity for official use; or

2. All-terrain vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation.

B. No person shall operate an off-road vehicle, as defined in Section 304.001, RSMo., within any stream in this City, except that off-road vehicles may be operated within waterways which flow within the boundaries of land which an off-road vehicle operator owns, or for agricultural purposes within the boundaries of land which an off-road vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this State at such road crossings as are customary or part of the highway system. All Law Enforcement Officials or Peace Officers of this State and its political subdivisions shall enforce the provisions of this Subsection within the geographic area of their jurisdiction.

C. A person operating an all-terrain vehicle on a street or highway pursuant to an exception covered in this Section shall have a valid license issued by a State authorizing such person to operate a motor vehicle but shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than thirty (30) miles per hour. When operated on a street or highway, an all-terrain vehicle shall have a bicycle safety flag, which extends not less than seven (7) feet above the ground, attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be dayglow in color.

D. No person shall operate an all-terrain vehicle:

1. In any careless way so as to endanger the person or property of another;

2. While under the influence of alcohol or any controlled substance; or

3. Without a securely fastened safety helmet on the head of an individual who operates an all-terrain vehicle or who is being towed or otherwise propelled by an all-terrain vehicle, unless the individual is at least eighteen (18) years of age.

E. No operator of an all-terrain vehicle shall carry a passenger, except for agricultural purposes.

F. A violation of this Section shall be an ordinance violation.

Section 340.115. Slow Moving Vehicles, Golf-Carts, ATV's – Regulations, Violation, Penalty.

Section 1. Regulations and Operations

A. Any handicap person utilizing a Motorized Wheelchair for the purpose of mobility is excluded from the rules and regulations in this ordinance and shall be allowed upon the streets within the City of Carterville as permitted by Missouri Law.

B. No person shall operate a golf cart or slow moving UTV in a carless or imprudent manner, or in any negligent manner which endangers any person or property, or unreasonably obstructs, hinders or impedes lawful course of travel of any other motor vehicle, or the lawful use by any pedestrian of public streets, sidewalks, paths, trails, walkways or parks.

C. Every person operating a golf cart or slow moving UTV on the public streets of the City shall be subject to all of the duties and regulations applicable to a driver of a motor vehicle imposed by law, specifically including, but not limited to, those laws pertaining to the possession and use of drugs and alcoholic beverages, and operating a motor vehicle under the influence thereof.

D. A golf cart or slow moving UTV may be operated only on a designated public street where the posted speed limit is thirty-five (35) miles per hour or less. No golf cart shall cross any highway or street at an intersection where the highway or street being crossed has a posted speed limit of more than thirty-five (35) miles per hour.

E. No golf cart or slow moving UTV May be operated on any numbered Federal or State Highway, except to cross at the intersection of a city street in accordance with traffic controls.

F. No golf cart or slow moving UTV may be operated upon any private property without permission of the property owner.

G. No golf cart or slow moving UTV may be operated on any sidewalk, path or walkway designated for use by pedestrians or operators of non-motorized vehicles.

H. Any individual operating a golf cart or slow moving UTV upon a public street shall have a valid operator's license in their possession.

I. Every golf cart or slow moving UTV operated on a public street shall display a slow-moving emblem in conformity with Section 307.127 RSMo, or a bicycle safety flag which extends not less than seven feet above the ground, attached to the rear of the vehicle; the flag shall be day-glow orange color and shall be triangular shaped with an area not less than thirty (30) square inches.

J. Golf cart or slow moving UTV operated upon public streets shall only be operated during daytime hours between sunrise and sunset unless properly equipped with operational headlights, taillights, brake lights and mechanical turn signals. Headlights, taillights and brake lights must emit light visible at night under normal atmospheric conditions on a straight, level, unlighted roadway at five hundred (500) feet. All operators shall follow all rules of the road as set forth by Missouri State Statutes and City Ordinance.

K. Golf cart or slow moving UTV's operating on city streets pursuant to this chapter shall be insured by a policy of insurance with coverage of not less than the statutory minimum established by the Missouri Department of Revenue for motor vehicles operating on the streets and highways of the State of Missouri. Such proof of insurance shall be carried with the vehicle, and produced upon request of any law enforcement officer.

L. Only the number of people the golf cart or slow moving UTV is designed to seat in a forward position is permitted. No passengers shall ride in the utility bed, bag well or rear facing seating. No more than two (2) persons per bench seat shall be allowed unless specifically designed with restraints for more.

M. No operator of a golf cart or slow moving UTV shall carry passengers that are less than sixteen (16) years of age unless the operator is the legal guardian of such passenger.

N. No adult may allow any child or person without a license not including permits or restricted licenses to operate a golf cart or slow moving UTV.

O. Any slow moving UTV that is capable of operating at speeds exceeding twenty (20) miles per hour shall have seatbelts for each passenger.

P. No go carts lawn mowers or similar vehicles are permitted to be operated on roadways under this Ordinance.

Q. The limitations of this section shall not apply to golf cart or slow moving UTV's being operated to the extent necessary for local government employees, operating upon roadways with the City, to fulfill a governmental purpose including Police, Fire, Ambulance and public utility entities.

R. Any UTV which is registered with the State of Missouri Department of Revenue is exempt from this ordinance.

S. All operators and Passengers of a UTV shall wear a properly secured and affixed DOT approved helmet. Officers may stop and inspect any persons whom they believe may not be in compliance with this section.

T. All UTV's licensed to operate shall have and maintain proof of financial responsibility and provide proof for display upon request by law enforcement officials.

U. ATVs are not permitted under this section unless in compliance with Missouri registration Laws.

Section 2. Permits and inspections.

A. Any owner of a golf cart or slow moving UTV whom desires to operate said vehicle within the City of Carterville shall produce the vehicle for inspection by the designated city official.

B. Permitted vehicles shall have the Make, Model and vehicle identification number placed on record for identification.

C. A permit fee of twenty dollars ($20.00) per year shall be paid to the City of Carterville for each golf cart or slow moving UTV. All fees collected shall be deposited into the street maintenance fund.

Section 3. Appearance Tickets

The Chief of Police, his designees and local law enforcement are hereby authorized to issue appearance tickets for violation of this ordinance.

Section 4. Penalty

Any Person found guilty of violation any section of this ordinance may have permit revoked and shall be fined not more than Five Hundred Dollars ($500.00) in addition to court costs.

Any previous Ordinance in conflict herewith, is hereby repealed. This Ordinance shall be in full affect from and after its passage.

The Chief of Police, his designees and local law enforcement are hereby authorized to issue appearance tickets for violation of this ordinance.

Section 340.120. Riding Bicycles, Sleds, Roller Skates By Attaching To Another Vehicle, Prohibited — Pulling A Rider Behind Vehicle Prohibited.

No person riding upon any bicycle, motorized bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself/herself to any vehicle upon a roadway. Neither shall the driver of a vehicle knowingly pull a rider behind a vehicle.

Section 340.130. Controlled Access.

No person shall drive a vehicle onto or from any controlled access roadway except at such entrances and exits as are established by public authority.

Section 340.140. Railroad Trains Not To Block Streets.

It shall be unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such a manner as to prevent the use of any street for purposes of travel for a period of time longer than five (5) minutes; provided that this Section shall not apply to a moving train or to one stopped because of an emergency or for repairs necessary before it can proceed safely.

Section 340.150. Driving Through Safety Zone Prohibited.

No vehicle shall at any time be driven through or within a safety zone.

Section 340.160. Manner of Operation of Motor Vehicles — Careful and Prudent.

Every person operating a motor vehicle on the highways of this City shall drive the vehicle in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or the life or limb of any person and shall exercise the highest degree of care.

Section 340.165. Number of Riders in Front Seat — Riding On Running Board or Fender.

No person shall operate a motor vehicle within the City with more than four (4) persons in the front or driver's seat thereof, nor shall he/she permit any person to stand or sit on the bumper, hood, roof, trunk or fender thereof while in motion.

Section 340.170. Driving To The Right.

A. Upon all public roads or highways of sufficient width, a vehicle shall be driven upon the right-half of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction pursuant to the rules governing such movement;

2. When placing a vehicle in position for and when such vehicle is lawfully making a left turn in compliance with the provisions of this Title;

3. When the right-half of a roadway is closed to traffic while under construction or repair; or

4. Upon a roadway designated by local ordinance as a one-way street and marked or signed for one-way traffic.

B. It is unlawful to drive any vehicle upon any highway or road which has been divided into two (2) or more roadways by means of a physical barrier or by means of a dividing section or delineated by curbs, lines or other markings on the roadway except to the right of such barrier or dividing section or to make any left turn or semi-circular or U-turn on any such divided highway, except at an intersection or interchange or at any signed location designated by the State Highways and Transportation Commission or the Department of Transportation. The provisions of this Subsection shall not apply to emergency vehicles, law enforcement vehicles or to vehicles owned by the Commission or the Department.

C. Whenever any roadway has been divided into three (3) or more clearly marked lanes for traffic, the following rules in addition to all other consistent herewith shall apply:

1. A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

2. Upon a roadway which is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway ahead is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

3. Upon all highways any vehicle proceeding at less than the normal speed of traffic thereon shall be driven in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb, except as otherwise provided in Sections 304.014 to 304.026, RSMo.

4. Official signs may be erected by the State Highways and Transportation Commission or the Highway Patrol may place temporary signs directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign.

5. Drivers of vehicles proceeding in opposite directions shall pass each other to the right and, except when a roadway has been divided into traffic lanes, each driver shall give to the other at least one-half (½) of the main traveled portion of the roadway whenever possible.

D. All vehicles in motion upon a highway having two (2) or more lanes of traffic proceeding in the same direction shall be driven in the right-hand lane except when overtaking and passing another vehicle or when preparing to make a proper left turn or when otherwise directed by traffic markings, signs or signals.

Section 340.180. Passing Regulations.

A. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations and exceptions hereinafter stated:

1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; and

2. Except when overtaking and passing on the right is permitted; the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of such driver's vehicle until completely passed by the overtaking vehicle.

B. The driver of a motor vehicle may overtake and pass to the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;

2. Upon a City street with unobstructed pavement of sufficient width for two (2) or more lanes of vehicles in each direction; or

3. Upon a one-way street.

The driver of a motor vehicle may overtake and pass another vehicle upon the right only under the foregoing conditions when such movement may be made in safety. In no event shall such movement be made by driving off the paved or main traveled portion of the roadway. The provisions of this Subsection shall not relieve the driver of a slow-moving vehicle from the duty to drive as closely as practicable to the right-hand edge of the roadway.

C. Except when a roadway has been divided into three (3) traffic lanes, no vehicle shall be driven to the left side of the centerline of a highway or public road in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

D. No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade or upon a curve of the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.

2. When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct, tunnel or when approaching within one hundred (100) feet of or at any intersection or railroad grade crossing.

Section 340.190. Hand and Mechanical Signals.

A. No person shall stop or suddenly decrease the speed of or turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety and then only after the giving of an appropriate signal in the manner provided herein.

1. An operator or driver when stopping, or when checking the speed of the operator's vehicle if the movement of other vehicles may reasonably be affected by such checking of speed, shall extend such operator's arm at an angle below horizontal so that the same may be seen in the rear of the vehicle.

2. An operator or driver intending to turn the vehicle to the right shall extend such operator's arm at an angle above horizontal so that the same may be seen in front of and in the rear of the vehicle and shall slow down and approach the intersecting highway as near as practicable to the right side of the highway along which such operator is proceeding before turning.

3. An operator or driver intending to turn the vehicle to the left shall extend such operator's arm in a horizontal position so that the same may be seen in the rear of the vehicle and shall slow down and approach the intersecting highway so that the left side of the vehicle shall be as near as practicable to the centerline of the highway along which the operator is proceeding before turning.

4. The signals herein required shall be given either by means of the hand and arm or by a signal light or signal device in good mechanical condition of a type approved by the State Highway Patrol; however, when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle, then such signals shall be given by such light or device. A vehicle shall be considered as so constructed or loaded that a hand and arm signal would not be visible both to the front and rear when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load exceeds twenty-four (24) inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereon exceeds fourteen (14) feet, which limit of fourteen (14) feet shall apply to single vehicles or combinations of vehicles. The provisions of this Subsection shall not apply to any trailer which does not interfere with a clear view of the hand signals of the operator or of the signaling device upon the vehicle pulling such trailer; provided further, that the provisions of this Section as far as mechanical devices on vehicles so constructed that a hand and arm signal would not be visible both to the front and rear of such vehicle as above provided shall only be applicable to new vehicles registered within this State after the first (1st) day of January, 1954.

Section 340.200. Stopping For School Bus.

A. The driver of a vehicle upon a highway upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children and whose driver has in the manner prescribed by law given the signal to stop shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion or until signaled by its driver to proceed.

B. Every bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words *"School Bus"* in letters not less than eight (8) inches

in height. Each bus shall have lettered on the rear in plain and distinct type the following: *"State Law: Stop While Bus is Loading and Unloading".* Each school bus subject to the provisions of Sections 304.050 to 304.070, RSMo., shall be equipped with a mechanical and electrical signaling device approved by the State Board of Education which will display a signal plainly visible from the front and rear and indicating intention to stop.

C. Every school bus operated to transport students in the public school system which has a gross vehicle weight rating of more than ten thousand (10,000) pounds, which has the engine mounted entirely in front of the windshield and the entrance door behind the front wheels, and which is used for the transportation of school children shall be equipped with a crossing control arm. The crossing control arm, when activated, shall extend a minimum of five (5) feet six (6) inches from the face of the front bumper. The crossing control arm shall be attached on the right side of the front bumper and shall be activated by the same controls which activate the mechanical and electrical signaling devices described in Subsection (B) of this Section. This Subsection may be cited as "Jessica's Law" in commemoration of Jessica Leicht and all other Missouri school children who have been injured or killed during the operation of a school bus.

D. Except as otherwise provided in this Section, the driver of a school bus in the process of loading or unloading students upon a street or highway shall activate the mechanical and electrical signaling devices, in the manner prescribed by the State Board of Education, to communicate to drivers of other vehicles that students are loading or unloading. A public school district has the authority pursuant to Section 304.050, RSMo., to adopt a policy which provides that the driver of a school bus in the process of loading or unloading students upon a divided highway of four (4) or more lanes may pull off of the main roadway and load or unload students without activating the mechanical and electrical signaling devices in a manner which gives the signal for other drivers to stop and may use the amber signaling devices to alert motorists that the school bus is slowing to a stop; provided that the passengers are not required to cross any traffic lanes and also provided that the emergency flashing signal lights are activated in a manner which indicates that drivers should proceed with caution and, in such case, the driver of a vehicle may proceed past the school bus with due caution. No driver of a school bus shall take on or discharge passengers at any location upon a highway consisting of four (4) or more lanes of traffic, whether or not divided by a median or barrier, in such manner as to require the passengers to cross more than two (2) lanes of traffic; nor shall any passengers be taken on or discharged while the vehicle is upon the road or highway proper unless the vehicle so stopped is plainly visible for at least five hundred (500) feet in each direction to drivers of other vehicles in the case of a highway with no shoulder and a speed limit greater than sixty (60) miles per hour and at least three hundred (300) feet in each direction to drivers of other vehicles upon other highways, and on all highways, only for such time as is actually necessary to take on and discharge passengers.

E. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or overtaking a school bus which is on a different roadway, which is proceeding in the opposite direction on a highway containing four (4) or more lanes of traffic, or which is stopped in a loading zone constituting a part of, or adjacent to, a limited or controlled access highway at a point where pedestrians are not permitted to cross the roadway.

Section 340.210. Right-Of-Way At Intersection — Signs At Intersections.

A. The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway, provided however, there is no form of traffic control at such intersection.

B. When two (2) vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. This Subsection shall not apply to vehicles approaching each other from opposite directions when the driver of one (1) of such vehicles is attempting to or is making a left turn.

C. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

D. The driver of a vehicle intending to make a left turn into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction when the making of such left turn would create a traffic hazard.

E. The State Highways and Transportation Commission or local authorities with respect to roads under their respective jurisdictions, on any Section where construction or major maintenance operations are being affected, may fix a speed limit in such areas by posting of appropriate signs, and the operation of a motor vehicle in excess of such speed limit in the area so posted shall be deemed prima facie evidence of careless and imprudent driving and a violation of Section 340.160.

Section 340.220. Distance At Which Vehicle Must Follow.

The driver of a vehicle shall not follow another vehicle more closely than is reasonably safe and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the roadway. Vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated, except in a funeral procession or in a duly authorized parade, so as to allow sufficient space between each such vehicle or combination of vehicles as to enable any other vehicle to overtake or pass such vehicles in safety. This Section shall in no manner affect Section 304.044, RSMo., relating to distance between trucks traveling on the highway.

Section 340.225. Regulations For Private Parking Lots Adjacent To Business Premises.

A. It shall be unlawful for any person while on a parking lot adjacent to a business enterprise to race the motor of any car or suddenly to start or stop any car, or to make or cause to be made any other loud or unseemly noise or to conduct himself/herself in a loud, boisterous or disorderly manner; and it shall be unlawful for any other person while on such a parking lot to blow or cause to be blown any automobile or motorcycle horn at any time while on such parking lot.

B. It shall be unlawful for any person while on a parking lot adjacent to a business premises, whether in or out of an automobile, to throw any cans, trash, litter or rubbish on such parking lot or to loiter thereon.

C. A *"parking lot adjacent to a business enterprise"*, for the purposes of this Section, shall mean a parking lot established by private funds for the purpose of facilitating patronage at commercial or business enterprises, including places where food or beverages are served, adjacent to such parking lot.

Section 340.230. Text Messaging While Operating A Motor Vehicle Prohibited — Exceptions — Definitions — Violation, Penalty.

A. Except as otherwise provided in this Section, no person twenty-one (21) years of age or younger operating a moving motor vehicle upon the highways of this State shall, by means of a hand-held

electronic wireless communications device, send, read, or write a text message or electronic message.

B. The provisions of Subsection (A) of this Section shall not apply to a person operating:

1. An authorized emergency vehicle; or

2. A moving motor vehicle while using a hand-held electronic wireless communications device to:

a. Report illegal activity;

b. Summon medical or other emergency help;

c. Prevent injury to a person or property; or

d. Relay information between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle.

C. Nothing in this Section shall be construed or interpreted as prohibiting a person from making or taking part in a telephone call, by means of a hand-held electronic wireless communications device, while operating a motor vehicle upon the highways of this State.

D. As used in this Section, *"electronic message"* means a self-contained piece of digital communication that is designed or intended to be transmitted between hand-held electronic wireless communication devices. *"Electronic message"* includes, but is not limited to, electronic mail, a text message, an instant message, or a command or request to access an Internet site.

E. As used in this Section, *"hand-held electronic wireless communications device"* includes any hand-held cellular phone, palm pilot, blackberry, or other mobile electronic device used to communicate verbally or by text or electronic messaging, but shall not apply to any device that is permanently embedded into the architecture and design of the motor vehicle.

F. As used in this Section, *"making or taking part in a telephone call"* means listening to or engaging in verbal communication through a hand-held electronic wireless communication device.

G. As used in this Section, *"send, read, or write a text message or electronic message"* means using a hand-held electronic wireless telecommunications device to manually communicate with any person by using an electronic message.

Sending, reading, or writing a text message or electronic message does not include reading, selecting, or entering a phone number or name into a hand-held electronic wireless communications device for the purpose of making a telephone call.

H. A violation of this Section shall be deemed an infraction and shall be deemed a moving violation for purposes of point assessment under Section 302.302, RSMo.

I. The State pre-empts the field of regulating the use of hand-held electronic wireless communications devices in motor vehicles, and the provisions of this Section shall supersede any local laws, ordinances, orders, rules, or regulations enacted by a County, municipality, or other political subdivision to regulate the use of hand-held electronic wireless communication devices by the operator of a motor vehicle.

J. The provisions of this Section shall not apply to:

1. The operator of a vehicle that is lawfully parked or stopped;
2. Any of the following while in the performance of their official duties: a Law Enforcement Officer; a member of a Fire Department; or the operator of a public or private ambulance;
3. The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system;
4. The use of voice-operated technology;
5. The use of two-way radio transmitters or receivers by a licensee of the Federal Communications Commission in the Amateur Radio Service.

Section 340.240. Inattentive Driving Prohibited – Violation, Penalty.

A. The operator of every vehicle, while driving, shall devote their full time and attention to such driving.

B. No law enforcement officer shall issue a citation under this section unless the law enforcement officer observes that the operator of the vehicle is involved in an accident or observes the operator of the vehicle driving in such a manner that poses an articulable danger to other persons on the roadway that is not otherwise specified in state statute.

C. Every person who violates this section, upon conviction, shall be punished by a fine as set by the Municipal Judge in accordance with state law. Court costs shall be imposed on any person for a violation of this section.

Chapter 342. Alcohol-Related Traffic Offenses

Cross Reference—As to reimbursement of certain costs related to arrest under this chapter, §135.310 of this Code.

Section 342.010. Definitions.

As used in this Chapter, the following terms shall have these prescribed meanings:

DRIVE, DRIVING, OPERATES OR OPERATING

Physically driving or operating a motor vehicle.

INTOXICATED CONDITION

A person is in an *"intoxicated condition"* when he/she is under the influence of alcohol, a controlled substance or drug, or any combination thereof.

LAW ENFORCEMENT OFFICER OR ARRESTING OFFICER

Includes the definition of Law Enforcement Officer in Subdivision (17) of Section 556.061, RSMo., and military Policemen conducting traffic enforcement operations on a Federal military installation under military jurisdiction in the State of Missouri.

Section 342.020. Driving While Intoxicated.

A person commits the offense of *"driving while intoxicated"* if he/she operates a motor vehicle while in an intoxicated or drugged condition. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two (2) years.

Section 342.030. Driving With Excessive Blood Alcohol Content.

A. A person commits the offense of *"driving with excessive blood alcohol content"* if such person operates a motor vehicle in this City with eight-hundredths of one percent (.08%) or more by weight of alcohol in such person's blood.

B. As used in this Section, *"percent by weight of alcohol"* in the blood shall be based upon grams of alcohol per one hundred (100) milliliters of blood or two hundred ten (210) liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this Section, the test shall be conducted in accordance with the provisions of Sections 577.020 to 577.041, RSMo.

Section 342.040. Chemical Test For Alcohol Content — Consent Implied — Administered — When — How — Videotaping of Chemical or Field Sobriety Test Admissible Evidence.

A. This Section and Section 577.021, RSMo., shall be known as the Alan Woods Law.

B. Any person who operates a motor vehicle upon the public highways of this City shall be deemed to have given consent to, subject to the provisions of Sections 577.020 to 577.041, RSMo., a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

1. If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was driving a motor vehicle while in an intoxicated or drugged condition;

2. If the person is under the age of twenty-one (21), has been stopped by a Law Enforcement Officer, and the Law Enforcement Officer has reasonable grounds to believe that such person was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent (.02%) or more by weight;

3. If the person is under the age of twenty-one (21), has been stopped by a Law Enforcement Officer, and the Law Enforcement Officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the State or any political subdivision of the State, and such officer has reasonable grounds to believe, after making such stop, that such person has a blood alcohol content of two-hundredths of one percent (.02%) or greater;

4. If the person is under the age of twenty-one (21), has been stopped at a sobriety checkpoint or roadblock, and the Law Enforcement Officer has reasonable grounds to believe that such person has a blood alcohol content of two-hundredths of one percent (.02%) or greater;

5. If the person, while operating a motor vehicle, has been involved in a motor vehicle collision which resulted in a fatality or a readily apparent serious physical injury as defined in Section

565.002, RSMo., and has been arrested as evidenced by the issuance of a uniform traffic ticket for the violation of any State law or County or municipal ordinance with the exception of equipment violations contained in Chapter 307, RSMo., or similar provisions contained in County or municipal ordinances; or

6. If the person, while operating a motor vehicle, has been involved in a motor vehicle collision which resulted in a fatality or serious physical injury as defined in Section 565.002, RSMo.

C. The implied consent to submit to the chemical tests listed in Subsection (B) of this Section shall be limited to not more than two (2) such tests arising from the same arrest, incident or charge.

D. Chemical analysis of the person's breath, blood, saliva or urine to be considered valid pursuant to the provisions of Sections 577.020 to 577.041, RSMo., shall be performed according to methods approved by the State Department of Health by licensed medical personnel or by a person possessing a valid permit issued by the State Department of Health for this purpose.

E. The person tested may have a physician, or a qualified technician, chemist, registered nurse or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a Law Enforcement Officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a Law Enforcement Officer.

F. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

1. The type of test administered and the procedures followed;

2. The time of the collection of the blood or breath sample or urine analyzed;

3. The numerical results of the test indicating the alcohol content of the blood and breath and urine;

4. The type and status of any permit which was held by the person who performed the test;

5. If the test was administered by means of a breath testing instrument, the date of performance of the most recent required maintenance of such instrument.

Full information does not include manuals, schematics or software of the instrument used to test the person or any other material that is not in the actual possession of the State. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

G. Any person given a chemical test of the person's breath pursuant to Subsection (B) of this Section or a field sobriety test may be videotaped during any such test at the direction of the Law Enforcement Officer. Any such video recording made during the chemical test pursuant to this Subsection or a field sobriety test shall be admissible as evidence for a violation of any municipal ordinance or any license revocation or suspension proceeding pursuant to the provisions of Chapter 302, RSMo.

Section 342.050. Consumption of Alcoholic Beverages in Moving Motor Vehicle — Prohibited When.

A. No person shall consume any alcoholic beverage while operating a moving motor vehicle upon the highways.

B. Any person found guilty of violating the provisions of this Section is guilty of an infraction.

C. Any infraction under this Section shall not reflect on any records with the Department of Revenue.

Section 342.060. Transporting Open Container of Alcohol Beverage in Motor Vehicle Prohibited.

A. Definitions used in this Section are as follows:

ALCOHOLIC BEVERAGE

The term alcoholic beverage shall be construed to mean intoxicating liquor as defined in Section 600.010 of this Code.

MOTOR VEHICLE

Any mechanical device on wheels, designed primarily for use on the highways, except motorized bicycles and vehicles propelled or drawn by human power, or vehicles used exclusively on fixed rails or tracks or cotton trailers.

POSSESSION

The term possession shall be defined as set forth in Section 600.010 of this Code.

RECREATIONAL MOTOR VEHICLE

Any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purpose of temporary housing quarters, including therein sleeping and eating facilities which are permanently attached to the motor vehicle. Nothing herein shall prevent any motor vehicle being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered.

B. No person shall knowingly transport in any vehicle operating upon a public highway, street or alley in the City any alcoholic beverage except in the original container which shall not have been opened and the seal upon which shall not have been broken and from which the original cap or cork shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare time compartment or any outside compartment which is not accessible to the driver or any other person in such vehicle while it is in motion. In the case of a pickup truck, station wagon, hatchback, or other similar vehicle, such open containers as described above shall be prohibited in the passenger compartment of such vehicles.

C. No driver of a motor vehicle in the City shall allow any alcoholic beverage to be consumed while in a moving motor vehicle, as defined in this Section, nor shall any person consume any alcoholic beverage while in a moving motor vehicle in the City.

D. Nothing in this Section shall be construed as to prohibit the otherwise legal consumption of alcoholic beverages by passengers on a privately or publicly owned transit authority that has been chartered and is not being utilized for conveyance of the general public where the operation and control of such conveyance is by a person not in possession of or with ready access to such alcoholic beverage.

E. This Section shall not apply to the living quarters of a recreational motor vehicle as defined in Subsection (A) of this Section.

F. It shall be unlawful for any person to be in possession of an alcoholic beverage in an open container when upon or in a public highway, street, alley, public park, or other publicly-owned property in the City.

Chapter 345. Pedestrians' Rights and Duties

Section 345.010. Pedestrians Subject To Traffic Control Devices.

Pedestrians shall be subject to traffic control signals as heretofore declared in Sections 315.060 and 315.070 of this Title, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this Chapter.

Section 345.020. Pedestrians' Right-Of-Way in Crosswalks.

A. When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

B. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

C. Subsection (A) shall not apply under the conditions stated in Subsection (B) of Section 345.050.

D. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

Section 345.030. Pedestrians To Use Right-Half of Crosswalks.

Pedestrians shall move, whenever practicable, upon the right-half of crosswalks.

Section 345.040. Crossing At Right Angles.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk.

Section 345.050. When Pedestrian Shall Yield.

A. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

B. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

C. The foregoing rules in this Section have no application under the conditions stated in Section 345.060 when pedestrians are prohibited from crossing at certain designated places.

Section 345.060. Prohibited Crossing.

A. Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.

B. No pedestrian shall cross a roadway other than in a crosswalk in any business district.

C. No pedestrian shall cross a roadway other than in a crosswalk upon any street designated by ordinance.

D. No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

Section 345.070. Obedience of Pedestrians To Bridge and Railroad Signals.

A. No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

B. No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge when such gate or barrier is closed or is being opened or closed.

Section 345.080. Pedestrians Walking Along Roadways.

A. Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

B. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

Section 345.090. Drivers To Exercise Highest Degree of Care.

Notwithstanding the foregoing provisions of this Title, every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

Section 345.100. Distance To Be Maintained When Overtaking A Bicycle.

The operator of a motor vehicle overtaking a bicycle proceeding in the same direction on the roadway, as defined in Section 300.010, shall leave a safe distance when passing the bicycle, and shall maintain clearance until safely past the overtaken bicycle.

Chapter 342. Method of Parking

Section 350.010. Standing or Parking Close To Curb.

Except as otherwise provided in this Chapter, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen (18) inches of the right-hand curb. Where no curb is present, vehicles

shall still park with the right-hand wheels of such vehicle parallel to and within eighteen (18) inches of the right-hand edge of roadway.

Section 350.020. Signs or Markings Indicating Angle Parking.

A. The City Traffic Engineer shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets but such angle parking shall not be indicated upon any Federal-aid or State highway within the City unless the State Highways and Transportation Commission has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

B. Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street.

Section 350.030. Obedience To Angle Parking Signs or Markers.

On those streets which have been signed or marked by the City Traffic Engineer for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

Section 350.035. Perpendicular Parking.

On no street within the city may any vehicle, regardless of street marking or signage, park perpendicular to the roadway.

Section 350.040. Loading or Unloading At An Angle To The Curb.

A. The City is authorized to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the regulations of this chapter.

Section 350.050. Lamps On Parked Vehicles.

A. Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half (½) hour after sunset and a half (½) hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such street or highway, no lights need be displayed upon such parked vehicle.

B. Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half (½) hour after sunset and a half (½) hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such highway, such vehicle so parked or stopped shall be equipped with one (1) or more lamps meeting the following requirements: At least one (1) lamp shall display a white or amber light visible from a distance of five hundred (500) feet to the front of the vehicle, and the same lamp or at least one (1) other lamp shall display a red light visible from a distance of five hundred (500) feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one (1) lamp or combination of lamps meeting the requirements of this Section is installed as near as practicable to the side of the vehicle which is closer to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.

C. Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

D. This Section shall not apply to governmental vehicles.

Chapter 342. Stopping, Standing, or Parking Prohibited in Specified Places

Section 355.005. Definitions.

Camper: A portable dwelling (such as a specially equipped trailer or automotive vehicle) for use during casual travel and camping.

RV: A vehicle designed for recreational use (as in camping). A large motor vehicle equipped as living quarters

Cargo trailer: A small non-motorized vehicle which is generally pulled by a motorized vehicle and features a fully or partially enclosed rear cargo area (bed) and is used for the hauling of loads.

Utility trailer: A small non-motorized vehicle which is generally pulled by a motorized vehicle and features an open-top rear cargo area (bed) and is used for the hauling of loads.

Section 355.010. Stopping, Standing or Parking Prohibited.

A. Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a Police Officer or official traffic control device, no person shall:

1. Stop, stand or park a vehicle:

    a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

    b. On a sidewalk;

    c. Within an intersection;

    d. On a crosswalk;

    e. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the (traffic authority) indicates a different length by signs or markings;

    f. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

    g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

    h. On any railroad tracks; or

    I. At any place where official signs prohibit stopping.

2. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

    a. In front of a public or private driveway;

    b. Within thirty (30) feet of an intersection;

    c. Within fifteen (15) feet of a fire hydrant;

d. Within twenty (20) feet of a crosswalk at an intersection;

e. Within thirty (30) feet upon the approach to any flashing signal, stop sign or traffic control signal located at the side of a roadway;

f. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance (when properly signposted); or

g. At any place where official signs prohibit standing.

3. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

a. Within fifty (50) feet of the nearest rail of a railroad crossing; or

b. At any place where official signs prohibit parking.

c. In fire lanes around businesses.

B. No person shall move a vehicle not lawfully under his/her control into any such prohibited area or away from a curb such a distance as is unlawful.

Section 355.020. Parking Not To Obstruct Traffic.

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic.

Section 355.030. Parking in Alleys.

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.

Section 355.040. Parking For Certain Purposes Prohibited.

A. No person shall park a vehicle upon any roadway or public way for the principal purpose of:

1. Displaying such vehicle for sale;

2. Repair such vehicle except repairs necessitated by an emergency; or

3. Selling or offering for sale any goods, wares, produce or merchandise whatsoever.

B. No person shall use any part of any public street in this City as a stand or location for the solicitation of business with horse-drawn or other vehicles, nor shall any person permit any such vehicle under his/her control to stand upon any public street in this City for the purpose of soliciting business.

Section 355.050. Parking Adjacent To Schools.

A. The City Traffic Engineer is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his/her opinion, interfere with traffic or create a hazardous situation.

B. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place.

Section 355.060. Parking Prohibited On Narrow Streets.

A. The City Traffic Engineer is authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet or upon one (1) side of a street as indicated by such signs when the width of the roadway does not exceed thirty (30) feet.

B. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

Section 355.070. Standing or Parking On One-Way Streets.

The City Traffic Engineer is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon such left-hand side in violation of any such sign.

Section 355.080. Standing or Parking On One-Way Roadways.

In the event a highway includes two (2) or more separate roadways and traffic is restricted to one (1) direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking. The City Traffic Engineer is authorized to determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.

Section 355.090. No Stopping, Standing or Parking Near Hazardous or Congested Places.

A. The City Traffic Engineer is hereby authorized to determine and designate by proper signs places not exceeding one hundred (100) feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

B. When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand or park a vehicle in any such designated place.

Section 355.100. Physically Disabled Parking.

A. It shall be unlawful for any person to park or stand any vehicle in any stall or space designated or reserved for physically disabled persons, as defined in Section 301.142, RSMo., as amended, whether upon public or private property open to public use, unless the vehicle bears the State of Missouri license plate or placard for the disabled as provided for in Sections 301.071 or 301.142, RSMo., as amended. The space shall be indicated by an upright sign whether on a pole or attached to a building upon which shall be inscribed the international symbol of accessibility and may also include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card. The sign described in this Subsection shall also state, or an additional sign shall be posted below or adjacent to the sign stating, the following: "$50 to $300 fine".

B. Any vehicle operator who is not physically disabled shall not use the handicapped parking space unless there is a physically disabled person in the vehicle or while the vehicle is being used to transport a physically disabled person.

C. Any person convicted of violating this Section is guilty of an offense and shall be subject to a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300.00). Every day upon which such violation occurs shall constitute a separate offense.

Section 355.110. Tractor-Trailer Parking Prohibited in City Park.

A. No person, persons or entity shall park any tractor-trailer unit, or the tractor or trailer thereof, in any City park or on the parking lot provided for a City park or on parking spaces adjacent to a City park.

B. No person, persons or entity shall park any tractor-trailer unit, or the tractor or trailer thereof, on any City street for longer than one (1) hour, except for the purpose of making delivery or picking up a load.

Section 355.115. Parking of Trailers on Street or Right-of-Way.

A. It shall be unlawful for any person to camp overnight, or to *park* a Camper, RV, Cargo Trailer or Utility trailer upon any public street, including the street right-of-way. This section shall not apply in cases where a mobile home or *trailer* is *parked* for the purpose of making emergency repairs not to exceed 12 hours

B. Temporary parking of construction trailers whom businesses possess the proper permits and licenses are exempt during the time of actual building or business.

Chapter 360. Stopping for Loading or Unloading Only

Section 360.010. City Traffic Engineer To Designate Curb Loading Zones.

The City Traffic Engineer is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this Section are applicable.

Section 360.020. Permits For Curb Loading Zones.

The City Traffic Engineer shall not designate or sign any curb loading zone upon special request of any person unless such person makes application for a permit for such zone and for two (2) signs to indicate the ends of each such zone. The City Traffic Engineer upon granting a permit and issuing such signs shall collect from the applicant and deposit in the City Treasury a service fee of ten dollars ($10.00) in addition to the cost of signage and may by general regulations impose conditions upon the use of such signs.

Section 360.030. Standing in Passenger Curb Loading Zone.

No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three (3) minutes.

Section 360.040. Standing in Freight Curb Loading Zones.

No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect.

Section 360.050. City Traffic Engineer To Designate Public Carrier Stops and Stands.

The City Traffic Engineer is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common carrier motor vehicles on such public streets, in such places and in such number as he/she shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs.

Section 360.060. Stopping, Standing and Parking of Buses and Taxicabs Regulated.

A. The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.

B. The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in case of an emergency.

C. The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

D. The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

Section 360.070. Restricted Use of Bus and Taxicab Stands.

No person shall stop, stand or park a vehicle other than a bus in a bus stop or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

Chapter 365. Stopping, Standing or Parking Restricted or Prohibited On Certain Streets

Section 365.010. Application of Chapter.

The provisions of this Title prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a

vehicle to avoid conflict with other traffic or in compliance with the directions of a Police Officer or official traffic control device.

Section 365.020. Regulations Not Exclusive.

The provisions of this Title imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

Section 365.030. Parking Prohibited At All Times On Certain Streets.

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets described by ordinance.

Section 365.040. Parking Prohibited During Certain Hours On Certain Streets.

When signs are erected in each block giving notice thereof, no person shall park a vehicle between the hours specified by ordinance of any day except Sunday and public holidays within the districts or upon any of the streets described by ordinance.

Section 365.050. Stopping, Standing or Parking Prohibited During Certain Hours On Certain Streets.

When signs are erected in each block giving notice thereof, no person shall stop, stand or park a vehicle between the hours specified by ordinance of any day except Sundays and public holidays within the district or upon any of the streets described by ordinance.

Section 365.060. Parking Signs Required.

Whenever by this Title or any ordinance of the City any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the City Traffic Engineer to erect appropriate signs giving notice thereof and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense.

Section 365.070. Commercial Vehicles Prohibited From Using Certain Streets.

In cases where an equally direct and convenient alternate route is provided, an ordinance may describe and signs may be erected giving notice thereof that no persons shall operate any commercial vehicle upon streets or parts of streets so described except those commercial vehicles making deliveries thereon.

Section 365.080. Vehicles in Excess of Five Tons Limited To Truck Routes — Exceptions.

A. Except upon any street currently designated as a truck route, it shall be unlawful to operate any vehicle on the streets of the City which has license weight in excess of eighteen thousand (18,000) pounds, except for the purpose of making delivery or picking up a load, in which case such vehicle may be driven on such street for not more than the minimum distance necessary for the purpose. This provision shall not prohibit the operation of emergency vehicles or the operation of trucks owned, operated or contracted by the City for public utility.

B. Nothing herein contained shall prevent a truck-tractor from leaving or returning to its customary storage location at the owner or operator's personal residence, or a commercial or industrial location in the city, provided the most direct route to and from a designated truck route is utilized. This Section shall not be interpreted as permitting a vehicle otherwise restricted to a truck route from parking upon non-designated truck routes. All owner or operator parking anywhere within

the city shall be upon private property and shall not obscure the view of adjacent city streets or traffic direction signage.

Chapter 370. Violations Bureau

Section 370.010. When Person Charged May Elect To Appear At Bureau.

A. Any person charged with an offense for which payment of a fine may be made to the Violations Bureau shall have the option of paying such fine within the time specified in the notice of arrest at the Violations Bureau upon entering a plea of guilty and upon waiving appearance in court or may have the option of depositing required lawful bail and, upon a plea of not guilty, shall be entitled to a trial as authorized by law.

B. The payment of a fine to the Bureau shall be deemed an acknowledgement of conviction of the alleged offense, and the Bureau, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof.

Section 370.020. Duties of Violations Bureau.

A. The following duties are hereby imposed upon the Violations Bureau in reference to traffic offenses:

1. It shall accept designated fines, issue receipts and represent in court such violators as are permitted and desire to plead guilty, waive court appearance and give power of attorney;

2. It shall receive and issue receipts for cash bail from the persons who must or wish to be heard in court, enter the time of their appearance on the court docket, and notify the arresting officer and witnesses, if any, to be present.

Section 370.030. Violations Bureau To Keep Records.

The Violations Bureau shall keep records and submit to the judges' hearing violations of City ordinances summarized monthly reports of all notices issued and arrests made for violations of the traffic laws and ordinances in the City and of all the fines collected by the Violations Bureau or the court and of the final disposition or present status of every case of violation of the provisions of said laws and ordinances. Such records shall be so maintained as to show all types of violations and the totals of each. Said records shall be public records.

Section 370.040. Additional Duties of Violations Bureau.

The Violations Bureau shall follow such procedure as may be prescribed by the traffic ordinances of the City or as may be required by any laws of this State.

Chapter 375. Procedure On Arrest

Section 375.010. Forms and Records of Traffic Citations and Arrests.

A. The City shall provide books containing uniform traffic tickets as prescribed by Supreme Court Rule. Said books shall include serially numbered sets of citations in quadruplicate in the form prescribed by Supreme Court Rule.

B. Such books shall be issued by the Chief of Police or his/her duly authorized agent, a record shall be maintained of every book so issued, and a written receipt shall be required for every book. The judge or judges hearing City ordinance violation cases may require that a copy of such record and receipts be filed with the court.

C. The Chief of Police shall be responsible for the issuance of such books to individual members of the Police Department. The Chief of Police shall require a written receipt for every book so issued and shall maintain a record of every such book and each set of citations contained therein.

Section 375.020. Procedure of Police Officers.

Except when authorized or directed under State law to immediately take a person before the Municipal Judge for the violation of any traffic laws, a Police Officer who halts a person for such violation, other than for the purpose of giving him/her a warning or warning notice and does not take such person into custody under arrest, shall issue to him/her a uniform traffic ticket which shall be proceeded upon in accordance with Supreme Court Rules.

Section 375.030. Uniform Traffic Tickets or Other Citation To Be Issued When Vehicle Illegally Parked or Stopped.

Whenever any motor vehicle without driver is found parked or stopped in violation of any of the restrictions imposed by ordinance of the City or by State law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user and shall conspicuously affix to such vehicle a uniform traffic ticket or other citation for the driver to answer to the charge against him/her within seven (7) days during the hours and at a place specified in the traffic ticket.

Chapter 380. Vehicle Equipment

No motor vehicle shall be operated upon the highways, roads, streets, or alleys within the City of Carterville except vehicles which meet the equipment standards as set forth in the Rules of the Department of Public Safety, Division 50- Missouri State Highway Patrol, Chapter 2- Motor Vehicle Inspection Division, Sections II CSR 50-2.010 through II CSR 50-2.520.

Article I. Light Regulations

Section 380.010. When Lights Required.

A. *"When lighted lamps are required"* means at any time from a half (½) hour after sunset to a half (½) hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred (500) feet ahead. Lighted lamps shall also be required any time the weather conditions require usage of the motor vehicle's windshield wipers to operate the vehicle in a careful and prudent manner as defined in Section 304.012, RSMo. The provisions of this Section shall be interpreted to require lighted lamps during periods of fog even if usage of the windshield wipers is not necessary to operate the vehicle in a careful and prudent manner.

B. *When Lights Required—Violation—Penalty.*

1. No person shall drive, move, park or be in custody of any vehicle or combination of vehicles on any street or highway during the times when lighted lamps are required unless such vehicle or combination of vehicles displays lighted lamps and illuminating devices as hereinafter in this Article

required. No person shall use on any vehicle any approved electric lamp or similar device unless the light source of such lamp or device complies with the conditions of approval as to focus and rated candlepower.

2. Notwithstanding the provisions of Section 307.120, RSMo., or any other provision of law, violation of this Section shall be deemed an infraction and any person who violates this Section as it relates to violations of the usage of lighted lamps required due to weather conditions or fog shall only be fined ten dollars ($10.00) and no court costs shall be assessed.

Section 380.020. Headlamp On Motor Vehicles.

Except as in this Article provided, every motor vehicle other than a motor-drawn vehicle and other than a motorcycle shall be equipped with at least two (2) approved headlamps mounted at the same level with at least one (1) on each side of the front of the vehicle. Every motorcycle shall be equipped with at least one (1) and not more than two (2) approved headlamps. Every motorcycle equipped with a sidecar or other attachment shall be equipped with a lamp on the outside limit of such attachment capable of displaying a white light to the front.

Section 380.030. Multiple-Beam Headlamps — Arrangement.

A. Except as hereinafter provided, the headlamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles other than motorcycles or motor-driven cycles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

1. There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred fifty (350) feet ahead for all conditions of loading.

2. There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

Section 380.040. Dimming of Lights — When.

Every person driving a motor vehicle equipped with multiple-beam road lighting equipment, during the times when lighted lamps are required, shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations: Whenever the driver of a vehicle approaches an oncoming vehicle within five hundred (500) feet or is within three hundred (300) feet to the rear of another vehicle traveling in the same direction, the driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the other driver, and in no case shall the high-intensity portion which is projected to the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a distance of twenty-five (25) feet ahead, and in no case higher than a level of forty-two (42) inches above the level upon which the vehicle stands at a distance of seventy-five (75) feet ahead.

Section 380.050. Taillamps — Reflectors.

A. Every motor vehicle and every motor-drawn vehicle shall be equipped with at least two (2) rear lamps, not less than fifteen (15) inches or more than seventy-two (72) inches above the ground upon which the vehicle stands, which when lighted will exhibit a red light plainly visible from a distance of five hundred (500) feet to the rear. Either such rear lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration marker and render it clearly legible from a distance of fifty (50) feet to the rear. When the rear registration marker is illuminated by an electric lamp other than the required rear lamps, all such lamps shall be turned on or off only by the same control switch at all times.

B. Every motorcycle registered in this State, when operated on a highway, shall also carry at the rear, either as part of the rear lamp or separately, at least one (1) approved red reflector which shall be of such size and characteristics and so maintained as to be visible during the times when lighted lamps are required from all distances within three hundred (300) feet to fifty (50) feet from such vehicle when directly in front of a motor vehicle displaying lawful undimmed headlamps.

C. Every new passenger car, new commercial motor vehicle, motor-drawn vehicle and omnibus with a capacity of more than six (6) passengers registered in this State after January 1, 1966, when operated on a highway shall also carry at the rear at least two (2) approved red reflectors, at least one (1) at each side, so designed, mounted on the vehicle and maintained as to be visible during the times when lighted lamps are required from all distances within five hundred (500) to fifty (50) feet from such vehicle when directly in front of a motor vehicle displaying lawful undimmed headlamps. Every such reflector shall meet the requirements of this Article and shall be mounted upon the vehicle at a height not to exceed sixty (60) inches nor less than fifteen (15) inches above the surface upon which the vehicle stands.

D. Any person who knowingly operates a motor vehicle without the lamps required in this Section in operable condition is guilty of an infraction.

Section 380.060. Auxiliary Lamps — Number — Location.

Any motor vehicle may be equipped with not to exceed three (3) auxiliary lamps mounted on the front at a height not less than twelve (12) inches nor more than forty-two (42) inches above the level surface upon which the vehicle stands.

Section 380.070. Cowl, Fender, Running Board and Backup Lamps.

Any motor vehicle may be equipped with not more than two (2) side cowl or fender lamps which shall emit a white or yellow light without glare. Any motor vehicle may be equipped with not more than one (1) running board courtesy lamp on each side thereof which shall emit a white or yellow light without glare. Any motor vehicle may be equipped with a backup lamp either separately or in combination with another lamp, except that no such backup lamp shall be continuously lighted when the motor vehicle is in forward motion.

Section 380.080. Spot Lamps.

Any motor vehicle may be equipped with not to exceed one (1) spot lamp but every lighted spot lamp shall be so aimed and used so as not to be dazzling or glaring to any person.

Section 380.090. Colors of Various Lamps — Restriction of Red Lights.

Headlamps, when lighted, shall exhibit lights substantially white in color; auxiliary lamps, cowl lamps and spot lamps, when lighted, shall exhibit lights substantially white, yellow or amber in color. No person shall drive or move any vehicle or equipment, except a school bus when used for school purposes or an emergency vehicle, upon any street or highway with any lamp or device thereon displaying a red light visible from directly in front thereof.

Section 380.100. Limitations On Lamps Other Than Headlamps — Flashing Signals Prohibited Except On Specified Vehicles.

Any lighted lamp or illuminating device upon a motor vehicle other than headlamps, spot lamps, front direction signals or auxiliary lamps which projects a beam of light of an intensity greater than three hundred (300) candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five (75) feet from the vehicle. Alternately flashing warning signals may be used on school buses when used for school purposes and on motor vehicles when used to transport United States mail from post offices to boxes of addressees thereof and on emergency vehicles as defined in Section 300.010 of this Title and on buses owned or operated by churches, mosques, synagogues, temples or other houses of worship and on commercial passenger transport vehicles or railroad passenger cars that are stopped to load or unload passengers, but are prohibited on other motor vehicles, motorcycles and motor-drawn vehicles except as a means for indicating a right or left turn.

Section 380.110. Limitation On Total of Lamps Lighted At One Time.

At the times when lighted lamps are required, at least two (2) lighted lamps shall be displayed, one (1) on each side of the front of every motor vehicle except a motorcycle and except a motor-drawn vehicle except when such vehicle is parked subject to the provisions governing lights on parked vehicles. Whenever a motor vehicle equipped with headlamps as in this Article required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of an intensity greater than three hundred (300) candlepower, not more than a total of four (4) of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

Section 380.120. Other Vehicles — How Lighted.

All vehicles, including agricultural machinery or implements, road machinery, road rollers, traction engines and farm tractors not in this Article specifically required to be equipped with lamps, shall be equipped during the times when lighted lamps are required with at least one (1) lighted lamp or lantern exhibiting a white light visible from a distance of five hundred (500) feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of five hundred (500) feet to the rear, and such lamps and lanterns shall exhibit lights to the sides of such vehicle.

Section 380.130. Animal-Driven Vehicles — Lighting Requirements — Penalty.

A. Any person who shall place or drive or cause to be placed or driven upon or along any State highway of this City any animal-driven vehicle whatsoever, whether in motion or at rest, shall after sunset to one-half (½) hour before sunrise have attached to every such vehicle at the rear thereof a red taillight or a red reflecting device of not less than three (3) inches in diameter of effective area or its equivalent in area. When such device shall consist of reflecting buttons, there shall be no less than seven (7) of such buttons covering an area equal to a circle with a three (3) inch diameter. The total subtended effective angle of reflection of every such device shall be no less than sixty degrees

(60°) and the spread and efficiency of the reflected light shall be sufficient for the reflected light to be visible to the driver of any motor vehicle approaching such animal-drawn vehicle from the rear of a distance of not less than five hundred (500) feet.

B. In addition, any person who operates any such animal-driven vehicle during the hours between sunset and one-half (½) hour before sunrise shall have at least one (1) light flashing at all times the vehicle is on any highway of this City. Such light or lights shall be amber in the front and red in the back and shall be placed on the left side of the vehicle at a height of no more than six (6) feet from the ground and shall be visible from the front and the back of the vehicle at a distance of at least five hundred (500) feet.

C. Any person operating an animal-driven vehicle during the hours between sunset and one-half (½) hour before sunrise may, in lieu of the requirements of Subsection (B) of this Section, use lamps or lanterns complying with the rules promulgated by the Director of the Department of Public Safety.

D. Any person violating the provisions of this Section shall be guilty of an ordinance violation.

Article II. Other Vehicle Equipment

Section 380.140. Other Equipment of Motor Vehicles.

A. *Signaling Devices.* Every motor vehicle shall be equipped with a horn, directed forward, or whistle in good working order capable of emitting a sound adequate in quantity and volume to give warning of the approach of such vehicle to other users of the highway and to pedestrians. Such signaling device shall be used for warning purposes only and shall not be used for making any unnecessary noise, and no other sound-producing signaling device shall be used at any time.

B. *Muffler Cutouts.* Muffler cutouts shall not be used and no vehicle shall be driven in such manner or condition that excessive and unnecessary noises shall be made by its machinery, motor, signaling device, or other parts, or by any improperly loaded cargo. The motors of all motor vehicles shall be fitted with properly attached mufflers of such capacity or construction as to quiet the maximum possible exhaust noise as completely as is done in modern gas engine passenger motor vehicles. Any cutout or opening in the exhaust pipe between the motor and the muffler on any motor vehicle shall be completely closed and disconnected from its operating lever and shall be so arranged that it cannot automatically open, or be opened or operated, while such vehicle is in motion.

C. *Brakes.* All motor vehicles, except motorcycles, shall be provided at all times with two (2) sets of adequate brakes kept in good working order, and motorcycles shall be provided with one (1) set of adequate brakes kept in good working order.

D. *Mirrors.* All motor vehicles which are so constructed or loaded that the operator cannot see the road behind such vehicle by looking back or around the side of such vehicle shall be equipped with a mirror so adjusted as to reveal the road behind and be visible from the operator's seat.

E. *Projections On Vehicles.* All vehicles carrying poles or other objects, which project more than five (5) feet from the rear of such vehicle, shall, during the period when lights are required by this Chapter, carry a red light at or near the rear end of the pole or other object so projecting. At other times a red flag or cloth, not less than sixteen (16) inches square, shall be displayed at the end of such projection.

F. *Towlines.* When one vehicle is towing another, the connecting device shall not exceed fifteen (15) feet. During the time that lights are required by Sections 307.020 to 307.120, RSMo., the required

lights shall be displayed by both vehicles. Every towed vehicle shall be coupled to the towing vehicle by means of a safety chain, cable or equivalent device in addition to the primary coupling device, except that such secondary coupling device shall not be necessary if the connecting device is connected to the towing vehicle by a center-locking ball located over or nearly over the rear axle and not supported by the rear bumper of the towing vehicle. Such secondary safety connecting devices shall be of sufficient strength to control the towed vehicle in the event of failure of the primary coupling device. The provisions of this Subsection shall not apply to wreckers towing vehicles or to vehicles secured to the towing vehicle by a fifth-wheel type connection. The provisions of this Subsection shall also not apply to farm implements or to any vehicle which is not required to be registered.

G. *Commercial Motor Vehicles And Trailers.* When being operated on any highway, street or road of this City, commercial motor vehicles and trailers shall be equipped with adequate and proper brakes, lighting equipment, signaling devices, steering mechanisms, horns, mirrors, windshield wipers, tires, wheels, exhaust system, glazing, air pollution control devices, fuel tank and any other safety equipment required by the State in such condition so as to obtain a certificate of inspection and approval as required by the provisions of Section 307.360, RSMo.

H. Devices attached to or towed by motor vehicles for the purpose of transporting hay shall have the protruding parts raised or retracted when not in use to a position which will not cause injury or damage to persons or property in the vicinity of such device when on the highways, streets or roads of this City.

Section 380.150. Loads Which Might Become Dislodged To Be Secured — Failure — Penalty.

A. All motor vehicles and every trailer and semi-trailer operating upon the public highways, streets or roads of this City and carrying goods or material or farm products which may reasonably be expected to become dislodged and fall from the vehicle, trailer or semi-trailer as a result of wind pressure or air pressure and/or by the movement of the vehicle, trailer or semi-trailer shall have a protective cover or be sufficiently secured so that no portion of such goods or material can become dislodged and fall from the vehicle, trailer or semi-trailer while being transported or carried.

B. Operation of a motor vehicle, trailer or semi-trailer in violation of this Section shall be an ordinance violation, and any person convicted thereof shall be punished as provided by Section 100.110 of this Code.

Section 380.160. Seat Belts.

A. As used in this Section, the term *"truck"* means a motor vehicle designed, used or maintained for the transportation of property.

B. As used in this Section, the term *"passenger car"* means every motor vehicle designed for carrying ten (10) persons or less and used for the transportation of persons; except that the term "passenger car" shall not include motorcycles, motorized bicycles, motorcycles and trucks with a licensed gross weight of twelve thousand (12,000) pounds or more.

C. Each driver, except persons employed by the United States Postal Service while performing duties for that Federal agency which require the operator to service postal boxes from their vehicles or which require frequent entry into and exit from their vehicles, and front seat passengers of a passenger car manufactured after January 1, 1968, operated on a street or highway in the City, and

persons less than eighteen (18) years of age operating or riding in a truck, as defined in Subsection (A) of this Section, on a street or highway of this City shall wear a properly adjusted and fastened safety belt that meets Federal National Highway, Transportation and Safety Act requirements. Primary enforcement has been adopted by the city whereas person may be stopped, inspected or detained solely to determine compliance with this Subsection. The provisions of this Section and Section 380.170 of this Chapter, shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this Section be applicable to persons while operating or riding a motor vehicle being used in agricultural work-related activities. The provisions of this Subsection shall not apply to the transporting of children under sixteen years of age, as provided in Section 380.170 of this Chapter.

D. Each driver of a motor vehicle transporting a child less than sixteen (16) years of age shall secure the child in a properly adjusted and fastened restraint under Section 380.170 of this Chapter.

E. Except as otherwise provided for in Section 380.170 of this Chapter, every person who violates this section, upon conviction, shall be punished by a fine as set by the Municipal Judge in accordance with state law. With the adoption of a primary enforcement ordinance, court costs shall be imposed on any person for a violation of this section.

F. If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the passengers who are unable to wear seat belts shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front-seated area. The passenger or passengers occupying a seat location referred to in this Subsection is not in violation of this Section. This Subsection shall not apply to passengers who are accompanying a driver of a motor vehicle who is licensed under Section 302.178, RSMo.

Section 380.170. Transporting Children Under Sixteen Years of Age — Restraint Systems.

A. As used in this Section; the following terms shall have these prescribed meanings:

CHILD BOOSTER SEAT

A seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R 571.213, as amended, that is designed to elevate a child to properly sit in a Federally approved safety belt system.

CHILD PASSENGER RESTRAINT SYSTEM

A seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system.

DRIVER

A person who is in actual physical control of a motor vehicle.

B. Every driver transporting a child under the age of sixteen (16) years shall be responsible, when transporting such child in a motor vehicle operated by that driver on the streets or highways of this City, for providing for the protection of such child as follows:

1. Children less than four (4) years of age, regardless of weight, shall be secured in a child passenger restraint system appropriate for that child.

2. Children weighing less than forty (40) pounds, regardless of age, shall be secured in a child passenger restraint system appropriate for that child.

3. Children at least four (4) years of age but less than eight (8) years of age, who also weigh at least forty (40) pounds but less than eighty (80) pounds, and who are also less than four (4) feet nine (9) inches tall, shall be secured in a child passenger restraint system or booster seat appropriate for that child.

4. Children at least eighty (80) pounds or children more than four (4) feet, nine (9) inches in height shall be secured by a vehicle safety belt or booster seat appropriate for that child.

5. A child who otherwise would be required to be secured in a booster seat may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is not equipped with a combination lap and shoulder belt for booster seat installation.

6. When transporting children in the immediate family when there are more children than there are seating positions in the enclosed area of a motor vehicle, the children who are not able to be restrained by a child safety restraint device appropriate for the child shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front seat area. The driver transporting children referred to in this Subsection is not in violation of this Section.

This Subsection shall only apply to the use of a child passenger restraint system or vehicle safety belt for children less than sixteen (16) years of age being transported in a motor vehicle.

C. Any driver who violates Subdivision (1), (2), or (3) of Subsection (B) herein, is guilty of an infraction and upon conviction may be punished by a fine of not more than fifty dollars ($50.00) and court costs. Any driver who violates Subdivision (4) of Subsection (B) herein, is guilty of an infraction and, upon conviction, may be punished by a fine of not more than fifty dollars ($50.00) and court costs. Any driver who violates Subdivision (4) of Subsection (B) herein, shall be subject to the penalty in Subsection (C) of Section 380.160 of this Chapter. If a driver receives a citation for violating Subdivision (1), (2) or (3) of Subsection (B) herein, the charges shall be dismissed or withdrawn if the driver prior to or at his/her hearing provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the Court or the party responsible for prosecuting the driver's citation.

D. The provisions of this Section shall not apply to any public carrier for hire. The provisions of this Section shall not apply to students four (4) years of age or older who are passengers on a school bus designed for carrying eleven (11) passengers or more and which is manufactured or equipped pursuant to Missouri Minimum Standards for School Buses as school buses are defined in Section 301.010, RSMo.

Section 380.180. Vision-Reducing Material Applied To Windshield or Windows Without Permit Prohibited — Penalty — Rules — Procedure.

A. Any person may operate a motor vehicle with front side wing vents or windows located immediately to the left and right of the driver that have a sun-screening device, in conjunction with safety glazing material, that has a light transmission of thirty-five percent (35%) or more plus or minus three percent (3%) and a luminous reflectance of thirty-five percent (35%) or less plus or minus three percent (3%). Except as provided in Subsection (C) of this Section, any sun-screening device applied to front side wing vents or windows located immediately to the left and right of the driver in excess of the requirements of this Section shall be prohibited without a permit pursuant to

a physician's prescription as described below. A permit to operate a motor vehicle with front side wing vents or windows located immediately to the left and right of the driver that have a sun-screening device, in conjunction with safety glazing material, which permits less light transmission and luminous reflectance than allowed under the requirements of this Subsection may be issued by the Department of Public Safety to a person having a serious medical condition which requires the use of a sun-screening device if the permittee's physician prescribes its use. The Director of the Department of Public Safety shall promulgate rules and regulations for the issuance of the permit. The permit shall allow operation of the vehicle by any titleholder or relative within the second degree of consanguinity or affinity, which shall mean a spouse, each grandparent, parent, brother, sister, niece, nephew, aunt, uncle, child and grandchild of a person who resides in the household. Except as provided in Subsection (B) of this Section, all sun-screening devices applied to the windshield of a motor vehicle are prohibited.

B. This Section shall not prohibit labels, stickers, decalcomania or informational signs on motor vehicles or the application of tinted or solar-screening material to recreational vehicles as defined in Section 700.010, RSMo., provided that such material does not interfere with the driver's normal view of the road. This Section shall not prohibit factory-installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

C. Any vehicle licensed with a historical license plate shall be exempt from the requirements of this Section.

D. Any person who violates the provisions of this Section is guilty of an ordinance violation.

Section 380.185. Windshield Wipers and Obstructions.

A. No person shall drive any motor vehicle with any sign, poster or other nontransparent material, ice or snow upon the front windshield, side wings or side or rear windows of such vehicle which obstructs the driver's clear view of the street or any intersecting street.

B. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

C. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

Section 380.190. Headgear Required — Motorcycles or Motor Tricycles.

A. Every person operating or riding as a passenger on any motorcycle or motor tricycle, as defined in this Title, upon any highway of this City shall wear protective headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable standards and specifications established by the Director of Revenue.

B. The penalty for failure to wear protective headgear as required by Subsection (A) of this Section shall be deemed an infraction for which a fine not to exceed twenty-five dollars ($25.00) may be imposed. Notwithstanding all other provisions of law and court rules to the contrary, no court costs shall be imposed upon any person due to such violation. No points shall be assessed pursuant to Section 302.302, RSMo., for a failure to wear such protective headgear.

Section 380.200. Studded Tires — Prohibited When.

No person shall operate any motor vehicle upon any road or highway of this City between the first (1st) day of April and the first (1st) day of November while the motor vehicle is equipped with tires containing metal or carbide studs.

Section 380.210. Restriction On Use of Metal-Tired Vehicles.

A. No metal-tired vehicle shall be operated over any of the improved highways of this City, except over highways constructed of gravel or clay bound gravel, if such vehicle has on the periphery of any of the road wheels any lug, flange, cleat, ridge, bolt or any projection of metal or wood which projects radially beyond the tread or traffic surface of the tire unless the highway is protected by putting down solid planks or other suitable material or by attachments to the wheels so as to prevent such vehicles from damaging the highway, except that this prohibition shall not apply to tractors or traction engines equipped with what is known as caterpillar treads when such caterpillar does not contain any projection of any kind likely to injure the surface of the road. Tractors, traction engines and similar vehicles may be operated which have upon their road wheels "V" shaped, diagonal or other cleats arranged in such manner as to be continuously in contact with the road surface if the gross weight on the wheels per inch of width of such cleats or road surface, when measured in the direction of the axle of the vehicle, does not exceed eight hundred (800) pounds.

B. No tractor, tractor engine or other metal-tired vehicle weighing more than four (4) tons, including the weight of the vehicle and its load, shall drive onto, upon or over the edge of any improved highway without protecting such edge by putting down solid planks or other suitable material to prevent such vehicle from breaking off the edges of the pavement.

C. Any person violating this Section, whether operating pursuant to a permit or not, or who shall willfully or negligently damage a highway, shall be liable for the amount of such damage caused to any highway, bridge, culvert or sewer, and any vehicle causing such damage shall be subject to a lien for the full amount of such damage, which lien shall not be superior to any duly recorded or filed chattel mortgage or other lien previously attached to such vehicle; the amount of such damage may be recovered in any action in any court of competent jurisdiction.

Section 380.220. Passengers in Trucks.

A. As used in this Section, the term *"truck"* means a motor vehicle designed, used or maintained for the transportation of property.

B. No person shall operate any truck, as defined in Subsection (A) of this Section, with a licensed gross weight of less than twelve thousand (12,000) pounds on any highway which is part of the State or Federal highway system or when such truck is operated within the corporate limits of the City when any person under eighteen (18) years of age is riding in the unenclosed bed of such truck. No person under eighteen (18) years of age shall ride in the unenclosed bed of such truck when the truck is in operation.

C. The provisions of this Section shall not apply to:

1. Any employee engaged in the necessary discharge of the employee's duties where it is necessary to ride in the unenclosed bed of the truck;

2. Any person while engaged in agricultural activities where it is necessary to ride in the unenclosed bed of the truck;

3. Any person riding in the unenclosed bed of a truck while such truck is being operated in a parade, caravan or exhibition which is authorized by law;

4. Any person riding in the unenclosed bed of a truck if such truck has installed a means of preventing such person from being discharged or such person is secured to the truck in a manner which will prevent the person from being thrown, falling or jumping from the truck;

5. Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purpose of participating in a special event and it is necessary that the person ride in such unenclosed bed due to a lack of available seating. *"Special event"*, for the purposes of this Section, is a specific social activity of a definable duration which is participated in by the person riding in the unenclosed bed;

6. Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purposes of providing assistance to, or ensuring the safety of, other persons engaged in a recreational activity; or

7. Any person riding in the unenclosed bed of a truck if such truck is the only legally titled, licensed and insured vehicle owned by the family of the person riding in the unenclosed bed and there is insufficient room in the passenger cab of the truck to accommodate all passengers in the truck. For the purposes of this Section, the term *"family"* shall mean any persons related within the first degree of consanguinity.

Section 380.225. Prohibited Manner of Driving or Riding.

A. No operator of a vehicle shall have in their lap any other person, adult or minor, or animal, nor shall they be seated in the lap of any person, while the vehicle is in motion.

B. No person shall ride in or operate any motor vehicle unless all portions of such person's body are entirely within that portion of the vehicle designed for the carrying of passengers or merchandise, or as otherwise permitted by this chapter; provided, however, that this section does not apply to any person whose employment makes it necessary to ride otherwise.

C. No person shall operate any truck as defined in RSMo 301.010 with a licensed gross weight of less than twelve thousand (12,000) pounds on any highway, street, road or alley within the corporate limits of the city when any person under eighteen (18) years of age is riding in the unenclosed bed of such truck. No person under eighteen (18) years of age shall ride in the unenclosed bed of such truck when the truck is in operation. The provisions of this subsection shall not apply to:

1. An employee engaged in the necessary discharge of the employee's duties where it is necessary to ride in the unenclosed bed of the truck;

2. Any person while engaged in agricultural activities where it is necessary to ride in the unenclosed bed of the truck;

3. Any person riding in the unenclosed bed of a truck while such truck is being operated in a parade, caravan or exhibition which is authorized by law;

4. Any person riding in the unenclosed bed of a truck if such truck has installed a means of preventing such person from being discharged or such person is secured to the truck in a manner which will prevent the person from being thrown, falling or jumping from the truck;

5. Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purposes of participating in a special event and it is necessary that the person ride in such unenclosed bed due to a lack of available seating. "Special event," for the proposes of this section, is a specific social activity of a definable duration which is participated in by the person riding in the unenclosed bed;

6. Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purpose of providing assistance to, or ensuring the safety or, other persons engaged in a recreational activity; or

7. Any person riding in the unenclosed bed of a truck if such truck is the only legally titled, licensed and insured vehicle owned by the family of the person riding in the unenclosed bed and there is insufficient room in the passenger cab of the truck to accommodate all passengers in such truck. For the purposes of this section the term "family" shall mean any persons related within the first degree of consanguinity.

Section 380.230. Altering Passenger Motor Vehicle By Raising Front or Rear of Vehicle Prohibited, When — Bumpers Front and Rear Required, When Certain Vehicles Exempt.

A. No person shall operate any passenger motor vehicle upon the public streets or highways of this City, the body of which has been altered in such a manner that the front or rear of the vehicle is raised at such an angle as to obstruct the vision of the operator of the street or highway in front or to the rear of the vehicle.

B. Every motor vehicle which is licensed in this State and operated upon the public streets or highways of this City shall be equipped with front and rear bumpers if such vehicle was equipped with bumpers as standard equipment. This Subsection shall not apply to motor vehicles designed or modified primarily for off-highway purposes, while such vehicles are in tow, or to motorcycles or motor-driven cycles, or to motor vehicles registered as historic motor vehicles when the original design of such vehicles did not include bumpers nor shall the provisions of this Subsection prohibit the use of drop bumpers. Maximum bumper heights of both the front and rear bumpers of motor vehicles shall be determined by weight category of gross vehicle weight rating (GVWR) measured from a level surface to the highest point of the bottom of the bumper when the vehicle is unloaded and the tires are inflated to the manufacturer's recommended pressure. Maximum bumper heights are as follows:

	Maximum front bumper height	**Maximum rear bumper height**
Motor vehicles except commercial motor vehicles	22 inches	22 inches
Commercial motor vehicles (GVWR) 4,500 lbs. and under	24 inches	26 inches
4,501 lbs. through 7,500 lbs.	27 inches	29 inches

7,501 lbs. through 9,000 lbs.	28 inches	30 inches
9,001 lbs. through 11,500 lbs.	29 inches	31 inches

Section 380.235. Obstruction of Drivers View or Operation.

A. It shall be unlawful for the operator of any vehicle to drive the vehicle when such vehicle is so loaded, or when there are in the front seat of such vehicle such number of persons, as to obstruct the view of the operator to the front or side, or to interfere with the operator's control over the driving mechanism of the vehicle.

B. It shall be unlawful for any passenger in a vehicle to ride in such position as to interfere with the operator's view ahead or to the sides, or to interfere with the operator's control over the driving mechanism of the vehicle.

C. It shall be unlawful for the operator of any motor vehicle registered in this state to operate such motor vehicle upon any highway or street with any manufactured vision reducing material applied to any portion of the motor vehicle's windshield, side wings or windows located immediately to the left and right of driver which reduces visibility from within or without the motor vehicle in accordance with RSMo 307.173.

Chapter 385. Bicycles and Motorized Bicycles

Section 385.010. Bicycle and Motorized Bicycle — Defined.

As used in this Chapter, the following terms shall mean:

BICYCLE

Every vehicle propelled solely by human power upon which any person may ride, having two (2) tandem wheels, or two (2) parallel wheels and one (1) or two (2) forward or rear wheels, all of which are more than fourteen (14) inches in diameter, except scooters and similar devices.

MOTORIZED BICYCLE

Any two- or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty (50) cubic centimeters, which produces less than three (3) gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground. A motorized bicycle shall be considered a motor vehicle for purposes of any homeowners' or renters' insurance policy.

Section 385.020. Brakes Required.

Every bicycle and motorized bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle or motorized bicycle within twenty-five (25) feet from a speed of ten (10) miles per hour on dry, level, clean pavement.

Section 385.030. Lights and Reflectors — When Required — Standards To Be Met.

A. Every bicycle and motorized bicycle when in use on a street or highway during the period from one-half (½) hour after sunset to one-half (½) hour before sunrise shall be equipped with the following:

1. A front-facing lamp on the front or carried by the rider which shall emit a white light visible at night under normal atmospheric conditions on a straight, level, unlighted roadway at five hundred (500) feet;

2. A rear-facing red reflector, at least two (2) square inches in reflective surface area, or a rear-facing red lamp on the rear which shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lower beams of vehicle headlights at six hundred (600) feet;

3. Reflective material and/or lights on any part of the bicyclist's pedals, crank arms, shoes or lower leg visible from the front and the rear at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at two hundred (200) feet; and

4. Reflective material and/or lights visible on each side of the bicycle or bicyclist and visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at three hundred (300) feet. The provisions of this Subsection shall not apply to motorized bicycles which comply with National Highway Traffic and Safety Administration regulations relating to reflectors on motorized bicycles.

Section 385.040. Rights and Duties of Bicycle and Motorized Bicycle Riders.

Every person riding a bicycle or motorized bicycle upon a street or highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle as provided by Chapter 304, RSMo., and this Title, except as to special regulations in this Chapter, and except as to those provisions of Chapter 304, RSMo., and this Title, which by their nature can have no application.

Section 385.050. Riding To Right — Required For Bicycles and Motorized Bicycles — Mandatory Use of Bicycle Path By Bicycles.

Every person operating a bicycle or motorized bicycle at less than the posted speed or slower than the flow of traffic upon a street or highway shall ride as near to the right side of the roadway as safe, exercising due care when passing a standing vehicle or one proceeding in the same direction, except when making a left turn, when avoiding hazardous conditions, when the lane is too narrow to share with another vehicle, or when on a one-way street. Bicyclists may ride abreast when not impeding other vehicles.

Section 385.060. Bicycle To Operate On The Shoulder Adjacent To Roadway, When — Roadway Defined.

A. A person operating a bicycle at less than the posted speed or slower than the flow of traffic upon a street or highway may operate as described in Section 385.050 of this Chapter, or may operate on the shoulder adjacent to the roadway.

B. A bicycle operated on a roadway, or the shoulder adjacent to a roadway, shall be operated in the same direction as vehicles are required to be driven upon the roadway.

C. For purposes of this Section, and Section 385.050, *"roadway"* means that portion of a street or highway ordinarily used for vehicular travel, exclusive of the berm or shoulder.

Section 385.070. Bicycle Required To Give Hand or Mechanical Signals.

The operator of a bicycle shall signal as required in Section 340.190 of this Title, except that a signal by the hand and arm need not be given continuously if the hand is needed to control or operate the bicycle. An operator of a bicycle intending to turn the bicycle to the right shall signal as indicated in Section 340.190 of this Title, or by extending such operator's right arm in a horizontal position so that the same may be seen in front and in rear of the vehicle.

Section 385.080. Penalty For Violation.

Any person seventeen (17) years of age or older who violates any provision of this Chapter is guilty of an ordinance violation and, upon conviction thereof, shall be punished by a fine of not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00). If any person under seventeen (17) years of age violates any provision of this Chapter in the presence of a Police Officer, said officer may impound the bicycle or motorized bicycle involved for a period not to exceed five (5) days upon issuance of a receipt to the child riding it or to its owner.

Section 385.090. Motorized Bicycles — License Required.

A. No person shall operate a motorized bicycle on any highways, streets or roads in this City unless the person has a valid license to operate a motor vehicle.

B. No motorized bicycle may be operated on any public thoroughfare located within this City which has been designated as part of the Federal interstate highway system.

Section 385.100. Equipment Required.

No person shall operate a motorized bicycle on any highways, streets or roads in this City unless it is equipped in accordance with the minimum requirements for construction and equipment of MOPEDS, Regulation VESC-17, approved July, 1977, as promulgated by the Vehicle Equipment Safety Commission.

Chapter 390. Licensing Requirements

Article I. Operator's Licenses

Section 390.010. Driving While License Suspended or Revoked.

A person commits the offense of driving while revoked if such person operates a motor vehicle on a highway when such person's license or driving privilege has been canceled, suspended or revoked under the laws of this State or any other State and acts with criminal negligence with respect to knowledge of the fact that such person's driving privilege has been canceled, suspended or revoked.

Note—Under certain circumstances this offense can be a felony under state law.

Section 390.020. Operation of Motor Vehicle Without Proper License Prohibited — Motorcycles — Special License.

A. Unless otherwise provided for by law, it shall be unlawful for any person, except those expressly exempted by Section 390.040, to:

1. Operate any vehicle upon any highway in this City unless the person has a valid license as required by Chapter 302, RSMo., or a temporary instruction permit issued in compliance with

Section 302.130, RSMo., or an intermediate driver's license issued in compliance with Section 302.178, RSMo., in his/her possession;

2. Operate a motorcycle or motor tricycle upon any highway of this City unless such person has a valid license that shows the person has successfully passed an examination for the operation of a motorcycle or motor tricycle as prescribed by the Director of Revenue. The Director of Revenue may indicate such upon a valid license issued to such person or shall issue a license restricting the applicant to the operation of a motorcycle or motor tricycle if the actual demonstration, required by Section 302.173, RSMo., is conducted on such vehicle;

3. Authorize or knowingly permit a motorcycle or motor tricycle owned by such person or under such person's control to be driven upon any highway by any person whose license does not indicate that the person has passed the examination for the operation of a motorcycle or motor tricycle or has been issued an instruction permit therefor;

4. Operate a motor vehicle with an instruction permit, intermediate driver's license or license issued to another person;

5. Operate a motor vehicle in violation of the provisions of Sections 302.130 and 302.178, RSMo., regarding accompaniment by a qualified driver or stated hours of operation; or

6. Drive a commercial motor vehicle, unless fully licensed in compliance with Chapter 302, RSMo., except when operating under an instruction permit as provided for in Section 302.720, RSMo.

Note—Under certain circumstances this offense can be a felony under state law.

Section 390.025. Effect of Revocation — Penalty.

Any resident or non-resident whose license, right or privilege to operate a motor vehicle in this State has been suspended or revoked as provided in Sections 302.010—302.540, RSMo., shall not operate a motor vehicle in this State under a license, permit or registration certificate issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under Sections 302.010—302.540, RSMo. Violation of any provision of this Section is a misdemeanor and on conviction therefor a person shall be punished as prescribed by Section 302.321, RSMo.

Section 390.030. Prohibited Uses of License.

A. It shall be unlawful for any person to:

1. Display or to permit to be displayed, or to have in his/her possession, any license knowing the same to be fictitious or to have been canceled, suspended, revoked, disqualified or altered;

2. Lend to or knowingly permit the use of by another any license issued to the person so lending or permitting the use thereof;

3. Display or to represent as one's own any license not issued to the person so displaying the same;

4. Fail or refuse to surrender to the Clerk of any Division of the Circuit Court or the Director any license which has been suspended, canceled, disqualified or revoked as provided by law;

5. Use a false or fictitious name or give a false or fictitious address on any application for a license, or any renewal or duplicate thereof, or knowingly to make a false statement;

6. Knowingly conceal a material fact or otherwise commit a fraud in any such application;

7. Authorize or consent to any motor vehicle owned by him/her or under his/her control to be driven by any person, when he/she has knowledge that such person has no legal right to do so, or for any person to drive any motor vehicle in violation of any of the provisions of Sections 302.010 to 302.780, RSMo.;

8. Employ a person to operate a motor vehicle in the transportation of persons or property with knowledge that such person has not complied with the provisions of Sections 302.010 to 302.780, RSMo., or whose license has been revoked, suspended, canceled or disqualified or who fails to produce his/her license upon demand of any person or persons authorized to make such demand;

9. Operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license; or

10. Fail to carry his/her instruction permit, valid operator's license while operating a vehicle and to display instruction permit or said license upon demand of any Police Officer, court official or any other duly authorized person for inspection when demand is made therefor. Failure to exhibit his/her instruction permit or license as aforesaid shall be presumptive evidence that said person is not a duly licensed operator.

Section 390.040. Exemptions From License Law.

A. The following persons are exempt from license hereunder:

1. Any person while operating any farm tractor or implement of husbandry temporarily operated or moved on a highway;

2. A non-resident who is at least sixteen (16) years of age and who has in his/her immediate possession a valid license issued to him/her in his/her home State or country;

3. A non-resident who is at least eighteen (18) years of age and who has in his/her immediate possession a valid license issued to him/her in his/her home State or country which allows such person to operate a motor vehicle in the transportation of persons or property as classified in Section 302.015, RSMo.; or

4. Convicted offenders of the Department of Corrections who have not been convicted of a motor vehicle felony as follows—driving while intoxicated, failing to stop after an accident and disclosing his/her identity, or driving a motor vehicle without the owner's consent—may operate State-owned trucks for the benefit of the correctional facilities, provided that such offender shall be accompanied by a Correctional Officer or other staff person in such truck.

Article II. Vehicle Licensing

Section 390.050. State Vehicle License Plates Required.

No person shall operate or park any motor vehicle or trailer upon any street or highway of this City unless such motor vehicle or trailer has properly displayed a valid license plate or plates or temporary permit issued to the lawful owner of the vehicle by the Department of Revenue of the State of Missouri, except that any person who is a non-resident of the State of Missouri may operate or park any motor vehicle or trailer upon any street or highway of this City, provided the motor vehicle or trailer has been duly registered for the current year in the State, country or other place of which the

owner is a resident, provided that at all times such motor vehicle or trailer is being operated or parked upon the streets or highways of this City, the valid license plate or plates or temporary permit is properly displayed on such vehicle or trailer.

Section 390.055. Registration of Motor Vehicles Operated For First Time in State.

Application for registration of a motor vehicle not previously registered in Missouri, operated for the first time on the public highways of this State, and previously registered in another State shall be made within thirty (30) days after the owner of such motor vehicle has become a resident of this State.

Section 390.060. Method of Displaying License Plates.

No motor vehicle or trailer shall be operated on any highway of this City unless it shall have displayed thereon the license plate or set of license plates issued by the Director of Revenue or the State Highways and Transportation Commission and authorized by Section 301.140, RSMo. Each such plate shall be securely fastened to the motor vehicle in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand (12,000) pounds on the front and rear of such vehicles not less than eight (8) nor more than forty-eight (48) inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motor tricycles and motor scooters shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on buses, other than school buses, and on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand (12,000) pounds shall be displayed on the front of such vehicles not less than eight (8) nor more than forty-eight (48) inches above the ground, with the letters and numbers thereon right side up, or if two (2) plates are issued for the vehicle pursuant to Subsection (3) of Section 301.130, RSMo., displayed in the same manner on the front and rear of such vehicles. The license plate or plates authorized by Section 301.140, RSMo., when properly attached, shall be prima facie evidence that the required fees have been paid.

Section 390.070. Unauthorized Plates, Tags, Stickers, Signs.

No person shall operate a motor vehicle or trailer on which there is displayed on the front or rear thereof any other plate, tag or placard bearing any number except the plate furnished by the Director of Revenue or the placard herein authorized and the official license tag of any municipality of this State, nor shall there be displayed on any motor vehicle or trailer a placard, sign or tag bearing the words "license lost", "license applied for" or words of similar import as a substitute for such number plates or such placard.

Section 390.080. License Plates On Vehicles Displayed For Sale.

No person shall show, exhibit, display or have in possession for the purpose of sale any motor vehicle bearing or displaying thereon any number or license plates except those of the dealer or owner so displaying said motor vehicle; provided however, that where the motor vehicle is placed on consignment with a dealer by the owner thereof, there may be displayed a number or license plate issued to the owner thereof.

Section 390.090. Certificate of Ownership Required For Registered Vehicle.

It shall be unlawful for any person to operate in this City a motor vehicle or trailer required to be registered as provided by law unless a certificate of ownership has been issued.

Section 390.100. Transfer of Certificate of Ownership Upon Sale of Vehicle.

It shall be unlawful for any person to buy or sell in this City any motor vehicle or trailer registered under the laws of this State unless at the time of delivery thereof there shall pass between the parties a certificate of ownership with an assignment thereof as provided in Section 301.210, RSMo., as amended, and the sale of any motor vehicle or trailer registered under the laws of this State, without the assignment of such certificate of ownership, shall be fraudulent and void.

Section 390.110. Removal of Plates On Transfer of Vehicle — Use By Purchaser.

Upon the transfer of ownership of any motor vehicle or trailer, the certificate of registration and the right to use the number plates shall expire and the number plates shall be removed by the owner at the time of the transfer of possession, and it shall be unlawful for any person other than the person to whom such number plates were originally issued to have the same in his/her possession whether in use or not; except that the buyer of a motor vehicle or trailer who trades in a motor vehicle or trailer may attach the license plates from the trade-in motor vehicle or trailer to the newly purchased motor vehicle or trailer. The operation of a motor vehicle with such transferred plates shall be lawful for no more than thirty (30) days. As used in this Section, the term *"trade-in motor vehicle or trailer"* shall include any single motor vehicle or trailer sold by the buyer of the newly purchased vehicle or trailer, as long as the license plates for the trade-in motor vehicle or trailer are still valid.

Section 390.120. Sale By Dealer.

Upon the sale of a motor vehicle or trailer by a dealer, a buyer who has made application for registration, by mail or otherwise, may operate the same for a period of thirty (30) days after taking possession thereof if during such period the motor vehicle or trailer shall have attached thereto, in the manner required by Section 301.130, RSMo., number plates issued to the dealer. Upon application and presentation of satisfactory evidence that the buyer has applied for registration, a dealer may furnish such number plates to the buyer for such temporary use. In such event, the dealer shall require the buyer to deposit the sum of ten dollars fifty cents ($10.50), to be returned to the buyer upon return of the number plates, as a guarantee that said buyer will return to the dealer such number plates within thirty (30) days.

Section 390.130. False Information By Dealer.

No dealer shall advise any purchaser of a motor vehicle or trailer that such purchaser may drive such a motor vehicle or trailer without compliance with the foregoing license requirements.

Article III. Miscellaneous Provisions

Section 390.140. Financial Responsibility Required.

A. No owner of a motor vehicle shall operate the vehicle, or authorize any other person to operate the vehicle registered, or maintain registration of a motor vehicle, or permit another person to operate such vehicle upon the streets or the alleys of this City unless the owner maintains the financial responsibility as required in this Section which conforms to the requirements of the laws of this State. Furthermore, no person shall operate a motor vehicle owned by another with the knowledge that the owner has not maintained financial responsibility unless such person has financial responsibility which covers the person's operation of the other's vehicle. However, no owner shall be in violation of this Subsection if he/she fails to maintain financial responsibility on a motor vehicle which is inoperable or being stored and not in operation.

B. For purposes of this Section, the term *"financial responsibility"* shall mean the ability to respond in damages for liability on account of accidents occurring after the effective date of proof of said financial responsibility, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars ($25,000.00) because of bodily injury to or death of one (1) person in any one (1) accident and, subject to said limit for one (1) person, in the amount of fifty thousand dollars ($50,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident and in the amount of ten thousand dollars ($10,000.00) because of injury to or destruction of property of others in any one (1) accident.

C. Proof of financial responsibility may be shown by any of the following:

1. A current insurance identification card issued by a motor vehicle insurer or by the Director of Revenue of the State of Missouri for self-insurance. A motor vehicle liability insurance policy, a motor vehicle liability insurance binder, or receipt which contains the name and address of the insurer, the name and address of the named insured, the policy number, the effective dates of the policy and a description by year and make of the vehicle, or at least five (5) digits of the vehicle identification number or the word "Fleet" if the insurance policy covers five (5) or more motor vehicles shall be satisfactory evidence of insurance in lieu of an insurance identification card.

2. A certificate of the State Treasurer of a cash or security deposit according to Section 303.240, RSMo.

3. A surety bond according to Section 303.230, RSMo.

D. Proof of financial responsibility shall be carried at all times in the insured motor vehicle or by the operator of the motor vehicle if the proof of financial responsibility is effective as to the operator rather than to the vehicle. The operator of an insured motor vehicle shall exhibit the insurance identification card on the demand of any Peace Officer, commercial vehicle enforcement officer or commercial vehicle inspector who lawfully stops such operator or investigates an accident while that officer or inspector is engaged in the performance of the officer's or inspector's duties.

E. However, no person shall be found guilty of violating this Section if the operator demonstrates to the court that he/she met the financial responsibility requirements of Section 303.025, RSMo., at the time the Peace Officer wrote the citation.

F. Any person who violates any provisions of this Section shall be guilty of an ordinance violation and shall, upon conviction thereof, be punished by a fine of not less than ten dollars ($10.00) nor more than three hundred dollars ($300.00) for each and every violation.

Section 390.150. Display of False Evidence of Insurance — Penalty — Confiscation of False Evidence.

No person shall display evidence of insurance to a Law Enforcement Officer knowing there is no valid liability insurance in effect on the motor vehicle as required pursuant to this Article or knowing the evidence of insurance is illegally altered, counterfeit or otherwise invalid as evidence of insurance. If the Law Enforcement Officer issues a citation to a motor vehicle operator for displaying invalid evidence of insurance, the officer shall confiscate the evidence for presentation in court. Any person convicted of violating this Section is guilty of an ordinance violation.

Section 390.160. Alteration, Production or Sale of Invalid Insurance Card.

No person shall alter an invalid insurance card to make it appear valid. No person knowingly shall make, sell or otherwise make available an invalid or counterfeit insurance card. Any person who violates this Section is guilty of an ordinance violation.

Schedule I. Speed Limits

Table I-A. Speed Limits.

In accordance with the provisions of Chapter 320, and when signs are erected giving notice thereof, it shall be unlawful for any person to drive a vehicle at a speed in excess of the speeds listed below on the streets as designated.

Speed Limit	Streets	Section
70 mph	Business Highway 71	Entire Roadway within City Limits
55 mph	AA Highway HH Highway	From HH Highway to Southern City Limits From 1st St to Eastern City Limits
45 mph	Gravel Road Guardian Road HH Highway	Entire Roadway within City Limits Entire Roadway within City Limits From Jefferson St to 1st St
35 mph	5th Street	Entire Roadway within City Limits
30 mph	Main Street North Pine Street	Entire Roadway within City Limits Entire Roadway within City Limits
25 mph	All other Streets not listed above	Entire Roadway within City Limits

Table I-B. Designated School Zones.

Street	School Zones	Speed Limit
Main Street	Between Tennessee Street and Pine Street	20mph
Tennessee Street	From Main Street North to Poplar Street	20mph
Pine Street	From Main Street North to Poplar Street	20mph

Schedule II. Through Streets

Table II-A. Through Streets.

As authorized by and in accordance with Sections

Street

Main St

HH Hwy

Business 71

5th St

1st St

Walnut St

N. Tennessee

Pine St

N. Fountain

N. Kentucky

N. Washington

Jefferson St

Schedule III. Parking Restrictions

As authorized by and in accordance with Section 355.010 of this Title, it shall be unlawful for the operator of a motor vehicle to stop, stand or park said motor vehicle at any one time or instance or location, as designated herein, except when necessary to avoid a conflict with the directions of a Policy Officer or traffic control sign or signal:

Table III-A. Angle Parking Allowed.

Location

Main Street, north and south side:

(Parallel Parking is also acceptable)

Table III-B. Parallel Parking Required.

All city streets within the city shall require parallel parking unless deemed as a “no parking” zone.

Schedule IV. Commercial Truck Routes

Table IV-A. Approved Commercial Truck Routes.

In accordance with Section 365.070 and with reference to Section 365.080, the following streets are designated as approved commercial truck routes:

Route

HH Highway:

Between AA Highway and Hatcher

Main:

Between Hatcher and West City Limits

Pine:

Between Main and termination of South Pine

5th Street:

Between HH Highway to west City limit

Sharon Drive:

Between Fountain and West City limit

North Davey:

Between Main and Termination of North Davey

Table IV-B. Commercial Truck Traffic Prohibited.

In accordance with Section 365.070 and with reference to Section 365.080, commercial truck traffic is prohibited on the following streets:

Prohibited Routes

Fountain street	Gum Road	Arch street
Washington street	Poplar street	1st street
Kentucky street	Hannum street	2nd street
North Tennessee	Wilson street	3rd street
Christina street	Hall street	4th street
Elizabeth street	Daugherty street	Mary street
North Pine street	Lewis street	Maple street
Cass street	Sharon drive	England Hill street
Kane street	Bulger drive	Walnut street
Terry street	Lead street	Zinc street
Hatcher street	McKee street	Ivy street
Jefferson street	Burch street	Oak Drive
Elm street	Lincoln street	Jackson street
Locust street	Oregon street	Van Dalla street
Pearl street	Harrison court	Clay street
Clara street	Harrison street	Cedar street

Chapter 400. Board of Adjustment

Section 400.010. Established.

A Board of Adjustment is hereby established in accordance with Chapter 89 of the Missouri Revised Statutes regarding the zoning of cities.

Section 400.020. Membership.

The Board of Adjustment shall consist of five (5) members, who shall be residents of the city. Three (3) alternate members may be appointed to serve in the absence of or the disqualification of regular members. Members shall be appointed for terms of five (5) years each.

All members and alternates shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

The Board of Adjustment shall elect its own chairperson and acting chairperson who shall serve for one (1) year. The chairperson, or, in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

Section 400.030. Meeting and Voting.

The meeting schedule shall be established by and maintained in the City Offices indicating meeting dates, application submittal deadlines, and tentative hearing schedule.

The City Clerk shall keep minutes at all meetings of the Board of Adjustment, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk, and shall be public record. All testimony, objections thereto, and rulings thereon shall be taken down by the City Clerk for that purpose.

Section 400.040. Powers.

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the City in the enforcement of the Zoning Code or of any ordinance adopted pursuant thereto;
2. To hear and decide all matters referred to it or upon which it is required to pass under such ordinances;
3. In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction or alteration of buildings or structures so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

Section 400.050. Eligible Applicants.

Appeals to the Board of Adjustment may be taken by any person or company aggrieved or by any officer, department, or board of the City affected by any decision of the City Administration.

Section 400.060. Application for Board of Adjustment Review.

The procedure for requesting a hearing before the Board of Adjustment shall be as follows:

A. *Pre-application conference.* Prior to submission of an application, the City Administrator shall schedule and hold a pre-application conference.

B. *Submittal Requirements*. The applicant shall submit the following to the City Administrator:

1. Application form. Completion of an authorized application form supplied by the City, including all supplemental information required by that form.

2. *Fees*. Filing and review fees, as established by the City Council.

3. A site plan, written narrative, or other information required by the City.

C. *Determination of completeness for hearing*.

1. Subsequent to receipt of an application and supporting documents, the City Administrator shall determine whether it is complete for purposes of conducting a public hearing. The application is complete for hearing if it includes all of the materials required in Section 400.060(B), Submittal Requirements.

2. Upon determination by the City Administrator that the application is incomplete for hearing, the City Administrator shall notify the applicant. The applicant shall either re-submit or notify the City Administrator of a pending re-submittal within a period of thirty (30) days. If the resubmittal or notification of a pending re-submittal are not received within this period, the application shall be deemed withdrawn without prejudice.

D. *Public Hearing*. Upon determination by the City Administrator that the application is complete for hearing, a public hearing on the application for a conditional use permit shall be scheduled in accordance with Chapter 442 of the City Code.

E. *Withdrawal*. An application for review may be withdrawn prior to the public hearing upon written notice to the City Administrator.

Section 400.070. Burden of Proof.

A. *Non-use variances*. In presenting any application for a non-use variance, the burden of proof shall rest with the applicant to clearly establish that, as a practical matter, the property cannot be used for a permitted use without coming into conflict with restrictions of the Zoning Code. The following specific criteria shall be considered:

1. How substantial the variance is in relation to the requirement;

2. The potential effect of the increased population density produced on the available government facilities;

3. The potential to produce a substantial change in the character of the neighborhood or a substantial detriment to adjoining property owners.

4. The ability to obviate the difficulty by some method, feasible for the applicants to pursue, other than the variance; and

5. In view of the manner in which the difficulty arose, and considering all of the above factors, whether the interests of justice would be served by granting the variance.

B. *Use variances*. In presenting any application for a variance to authorize a use that the Zoning Code does not allow, the burden of proof shall rest with the applicant to:

1. Demonstrate an unnecessary hardship which is defined by the following criteria:

   a. The land in question cannot yield a reasonable return if used only for a use permitted in the zone in which it is located;

   b. The owner's plight is due to unique and not to general neighborhood considerations; and

   c. The granting of the variance would not alter the essential character of the locality.

2. Prove that relief is necessary because of the unique character of the property;

3. Prove that the variance will not destroy the preservation of the Comprehensive Plan; and

4. Prove that granting the variance will result in substantial justice.

C. In presenting any application for a variance, the burden of proof shall rest with the applicant to prove that the harm complained of is not self-inflicted.

Section 400.080. Procedure and Decision.

A. An appeal stays all proceedings in furtherance of the action appealed from, unless the City Administrator certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his or her opinion, cause immediate peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the office from whom the appeal is taken and on due cause shown.

B. The Board of Adjustment may, in conformity with the provisions of Sections 89.010 to 89.140 of the Missouri Revised Statutes, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the City Administrator. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision, or determination of the City Administrator, or to decide in favor of the applicant or any matter upon which it is required to pass under any such ordinance or to affect any variation in such ordinance.

Section 400.090. Reapplication.

In the event that any application is denied by the Board, a reapplication concerning the same property or site shall not be accepted by the board until six (6) months following the date of final action on the original application has elapsed, unless it can be shown to the satisfaction of the City Administrator that:

A. A significantly different plan is proposed; or

B. That new facts or other pertinent information have been discovered that were not previously presented and were not reasonably capable of discovery by the applicant prior to the previous application.

Section 400.100. Appeal of Board of Adjustment Decision.

Any person or persons, jointly or severally aggrieved by any decision of the Board of Adjustment, may, within thirty (30) days of the issuance of the decision of the board, present to the Circuit Court of Jasper County a petition, duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality in accordance with appropriate state statute.

Chapter 402. Public Notice

Section. 402.010. Purpose.

It is the purpose of this Section to establish procedures for informing and notifying the residents of the city regarding proposed zoning map and zoning code text amendments, conditional use permit requests, proposed comprehensive plan amendments, appeals to the board of adjustment, and proposed vacations of public easements or rights-of-way.

Section. 402.020. Determination of Hearing Date.

A schedule shall be established by and maintained at the city offices indicating any meeting dates and tentative hearing schedules.

Section. 402.030. Notice of Public Hearing.

A. For proposed zoning map and zoning code text amendments, conditional use permit requests, proposed comprehensive plan amendments, and appeals to the board of adjustment, a notice of public hearing must be published at least once in a newspaper of general circulation, commencing not more than thirty (30) days nor less than fifteen (15) days prior to the hearing date.

B. Notice shall contain the name of the applicant making the application, the specific action being requested, the time, date, and place of the hearing, and a general description of the location of the property.

C. It shall be the responsibility of the applicant to prepare and submit for publication said notice with proof of publication provided to the city offices.

Section. 402.040. Public Posting of Notice.

A. For proposed zoning map amendments, conditional use permit requests, appeals to the board of adjustment, the city Administrator shall cause the posting of the subject property by erecting a sign.

B. For proposed comprehensive plan amendments, which are limited to a specific neighborhood, the City Administrator shall cause the posting of the area by erecting a sign.

C. Said sign shall be placed upon said land at least fifteen (15) days prior to the public hearing for proposed zoning map amendments, conditional use permit requests, appeals to the board of adjustment, and comprehensive plan amendments.

D. Said sign shall be posted upon said land at a point nearest to the right-of-way of any street or roadway abutting such land, so as to be clearly visible to the traveling public.

Section. 402.050. Notification of Abutting Property Owners.

A. For proposed comprehensive plan amendments which are limited specific neighborhood, the city Administrator shall notify all owners of record by mail within three hundred (300) feet from each boundary of the subject property, not less than fifteen (15) days prior to the established hearing date.

B. Not less than fifteen (15) days prior to the established hearing date for proposed zoning map amendments, conditional use permit requests, or appeals to the board of adjustment, the city Administrator shall notify all owners of record by mail within three hundred (300) feet from each legal boundary of the subject property.

Section. 402.060. Fees/Advertising Costs.

In addition to the filing fees established by the city council, the applicant shall reimburse the city for any additional advertising and mailing costs related to public hearings.

Section. 402.070. Reopening of Public Hearing.

The planning commission, subsequent to the closure of the public hearing, may reopen the public hearing, including requiring the notice and advertisement of the hearing, if it is found that:

A. The application process has been suspended, delayed or discontinued due to the lack of response by the applicant; or

B. The application has been substantially amended or revised; or

C. The application has been substantially impacted by the action or lack of action by a public or quasi-public agency.

Chapter 405. Zoning Regulations

Cross References—As to planning, ch.400; as to subdivisions, ch.410; as to motor homes and mobile home parks, ch.415.

Article I. General Provisions

Section 405.010. City Land Use Ordinances.

This Title includes the City zoning ordinance, Chapter 405, the flood plain management ordinance, Article IV of Chapter 405, Sections 405.360 et seq., the subdivision ordinance, Chapter 410 and the mobile home park ordinance, Chapter 415. The fair housing policy is set out in Title II, Chapter 225 of this Code.

Section 405.020. Definitions.

A. The phrase *"used for"* also means *"designed for"* and vice versa; words used in the present tense include the future; words in the singular number include the plural number and vice versa; words indicating the masculine gender include the feminine and vice versa; and the word *"shall"* is mandatory.

B. For the purposes of this Chapter, certain terms and words are hereby defined as follows:

ACCESSORY BUILDING

A subordinate building having a use customarily incident to and located on the same lot as the main building. A building housing an accessory use is considered part of the main building when it has any part of a wall in common with the main building or is under an extension of the main roof.

ACCESSORY USE

A use incidental to the principal use of a building. In buildings restricted for residential use, an office used for family occupations and workshops not conducted for compensation shall be deemed accessory uses.

AGRICULTURAL

The growing of crops in the open and the raising of such stock and poultry as are incidental to the acreage farmed, provided however, that such land shall consist of at least ten (10) acres in one (1) parcel or in contiguous parcels under common ownership or operation. The raising of fur-bearing animals, riding academies, livery or boarding stables or dog kennels shall not be deemed an agricultural use.

ALLEY

A minor permanent public service way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

ALTERATION

Any addition, removal, extension or change in the structural parts of a building, whether by extending on a side or by increasing in height or the moving from one location or position to another.

APARTMENT HOUSE

A building arranged, intended or designed to be occupied by three (3) or more families living independently of each other.

BASEMENT

A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than one-half (½) of its height is above the average level of the adjoining ground.

BILLBOARD—SIGN BOARD

Any sign or advertisement used as an outdoor display for the purpose of making anything known, the origin or point of sale of which is remote from said display.

BUILDING

The word *"building"* shall be construed to include any structure.

BUILDING AREA

The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

BUILDING FRONT LINE

The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or not, but does not include steps.

BUILDING HEIGHT

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip or gambrel roofs.

BUILDING LINE

A line across a lot establishing the minimum open space to be provided between the buildings and structures and the street property line.

BUILDING, PRINCIPAL

A building in which is conducted the main or principal use of the lot on which said building is situated.

CHANNEL

A natural or artificial watercourse of perceptible extent with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of a defined channel.

CHILD CARE FACILITY

A house or other place conducted or maintained by any person who advertises or holds himself/herself out as providing care for more than four (4) children under the age of seventeen (17) during the daytime, for compensation or otherwise, except those operated by a school system or in connection with a business establishment as a convenience for its customers, provided however, that this determination shall not apply to any person, firm or institution not required to be licensed under Section 210.211, RSMo.

1. *Day care home.* A family home, occupied as a permanent residence by the day care provider, in which family-like care is given to no more than ten (10) children, not related to the day care provider, for any part of the twenty-four (24) hour day.

2. *Day care center.* A facility, other than the provider's permanent residence or separate from the provider's permanent residence or separate from the provider's living quarters, where care is provided for children for any part of the twenty-four (24) hour day.

CITY CLERK

The Carterville Clerk or his/her designated representative.

COMPREHENSIVE PLAN

A master plan for the development of all or part of the territorial jurisdiction of the City, as adopted in accordance with this Code and the laws of the State, including studies pertaining to land use, traffic volume and flow, schools, parks, subdivisions, streets and public buildings.

COVERAGE

That percentage of the plot or lot area covered by the building area.

CUL-DE-SAC

A short street having one (1) end open to traffic and being permanently terminated within the plat by a vehicular turnaround.

DEVELOPMENT

Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DOG KENNEL

The keeping of more than three (3) dogs that are more than six (6) months old.

DUMP

A parcel of land used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DWELLING—RESIDENCE

A building or portion thereof designed exclusively for residential occupancy, including one- and two-family residences, but not including hotels, boarding and rooming houses.

1. *Dwelling, single-family.* A detached building designed exclusively for occupancy by one (1) family.
2. *Dwelling, two-family—duplex.* A building designed exclusively for occupancy by two (2) families living independently of each other.
3. *Dwelling, multiple-family.* A building or portion of a building designed for or occupied by three (3) or more families living independently of each other.

EASEMENT

A grant by the property owner of a right to use some part or all of the subject property for some specified purpose, said grant being to and for the use of the public, a corporation or persons.

FAMILY

One (1) or more persons related by blood or marriage, including adopted children or a group of not to exceed five (5) persons (excluding servants) not all related by blood or marriage, occupying premises and living as a single non-profit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use. A family shall be deemed to include domestic servants employed by said family.

FILLING STATION

Any area of land, including any structure or structures thereon, used or designed to be used for the supply of gasoline or oil or other fuel (not including liquid petroleum gases) for the propulsion of vehicles.

FLOOD

A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland waters; or
2. The unusual and rapid accumulation of runoff or surface waters from any source.

FLOOD PLAIN MANAGEMENT

The operation of an overall program of corrective and preventative measures for reducing flood damage including, but not limited to, emergency preparedness plan, flood control works and flood plain management regulations. The following definitions apply to these terms when used in the flood plain management ordinance codified in this Chapter:

1. *Actuarial rates—risk premium rates.* Rates established pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014 and accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.
2. *Base flood.* The flood having a one percent (1%) chance of being equaled or exceeded in any given year, identical to the term *"100-year flood".*
3. *Existing construction.* Any construction started prior to the effective date of a flood plain management ordinance adopted by the City, also referred to as *"existing structures"*.
4. *Flood Insurance Rate Map (FIRM).* The official map of a community prepared by the Department of Housing and Urban Development/Federal Insurance Administration delineating flood hazard boundaries where flood insurance may be sold and the risk premium zones applicable to such areas.
5. *Flood Insurance Study (FIS).* The official report provided by the Federal Emergency Management Agency. The report contains flood profiles and high-water elevations for various flood frequencies as well as the boundaries and water surface elevations of the base flood.
6. *Flood protection system.* Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard". Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound Federal engineering standards.
7. *Floodproofing.* Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
8. *Floodway.* Also *"regulatory floodway."* The channel of a river or other watercourse and the adjacent portion of the flood plain that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot at any point

assuming equal conveyance reduction outside the channel from the two (2) sides of the flood plain.

9. *Floodway fringe.* That area of the flood plain, outside the floodway, that on the average is likely to be flooded once every one hundred (100) years (i.e., that has a one percent (1%) chance of flood occurrence in any one (1) year).

10. *Freeboard.* A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. *"Freeboard"* tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as clogged bridge openings and the hydrological effect of urbanization of the watershed.

11. *Historic structure.*

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a State inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved State program as determined by the Secretary of the Interior, or

(2) Directly by the Secretary of the Interior in States without approved programs.

12. *Manufactured home or mobile home.* For flood plain management purposes, the term means any transportable structure used as a dwelling, including travel trailers and the like, when placed on a site for more than one hundred (100) consecutive days; however, for flood insurance purposes, the term does not include such trailers or recreational vehicles.

13. *New construction.* For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community and includes any subsequent improvements to such structures.

14. *Regulatory flood elevation.* The water surface elevation of the 100-year flood, which is shown on the FIRM and in the FIS.

15. *Regulatory flood protection elevation.* An elevation one (1) foot higher than the water surface elevation of the regulatory flood.

16. *Shallow flooding area.* A designated AO or AH Zone on the City's FIRM with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

17. *Start of construction.* For other than new construction or substantial improvement under the Coastal Barrier Resources Act (Pub. L. 97-348), includes "substantial improvement" and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The *"actual start"* is the first (1st) placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. "Permanent construction" does not include land preparation, such as clearing, grading and filing; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual *"start of construction"* means the first (1st) alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

18. *Substantial damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred *"substantial damage"*, regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of an "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure".

19. *Substantial improvement.* Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

a. Before the improvement or repair is started; or

b. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "*substantial improvement*" is considered to have occurred when the first (1st) alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: Any project for improvement of a structure to comply with existing State or local health, sanitation surface prior to the construction next to the proposed walls of a structure.

GROUP HOME

Any home in which eight (8) or fewer unrelated mentally or physically handicapped persons reside, and may include two (2) additional persons acting as house-parents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home.

HOME OCCUPATION

Any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory buildings; provided, that no trading in merchandise is carried on and in connection with which there is no display of merchandise or sign other than one (1) non-illuminated nameplate not more than two (2) square feet in area, which said sign is attached to the main or accessory building; and further provided that no mechanical equipment is used, nor any activity conducted that creates any noise, dust, odor or electrical disturbance beyond the confines of the lot on which said occupation is conducted. No more than twenty percent (20%) of the usable floor area shall be devoted to such occupation.

HOSPITAL

A building used for the diagnosis, treatment or other care of human ailments.

HOTEL

Any building or portion thereof which contains guest rooms designed or intended to be used, let or hired out for occupancy or which are occupied by ten (10) or more individuals for compensation, whether paid directly or indirectly.

JUNK YARD

A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition.

LOADING SPACE

An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street or other appropriate means of access.

LOT

A unit of land defined as such for the purpose of development or the transfer of ownership, occupied or to be occupied by a building or unit group of buildings and accessory buildings, together with such yard or other area required by this Chapter and having its principal frontage upon a street or a place approved by the City.

1. *Lot, corner.* A lot, or portion thereof, not greater than one hundred (100) feet in width and situated at the intersection of two (2) or more streets, having an angle of intersection of not more than one hundred thirty-five degrees (135°).
2. *Lot, interior.* A lot whose side lines do not abut upon any street.
3. *Lot, through.* A lot other than a corner lot abutting upon two (2) or more streets.

LOT DEPTH

The horizontal distance between the front and rear lot lines, measured along the median between the two (2) side lot lines.

LOT LINE

The line bounding a lot as defined herein.

LOT WIDTH

The horizontal distance between the side lot lines, measured at right angles to the lot depth at the building line.

MOBILE HOME

The term “mobile home” refers to any manufactured home, single-wide, double-wide, or other structure transportable in one (1) or more constructed sections, erected on a site and is designed to be used as a dwelling with or without a permanent foundation, and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term modular home, constructed in an offsite location and then erected on-site, but not intended to be readily movable from location to location, are not considered mobile homes.

1. *Mobile home park.* A parcel (or contiguous parcels) of land which has been divided into two (2) or more lots for rent or sale and the placement of mobile homes.

2. *Mobile home space.* A plot of ground within a mobile home community or park which is designed for and designed as the location for only one (1) automobile and one (1) mobile home and not used for any other purposes whatsoever other than the customary accessory uses thereof.

3. *Permit.* A written authorization of the City to allow location, establishment and/or maintenance of a mobile home within the City limits.

4. *Recreational vehicle.* A vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motor power or is mounted on or drawn by another motorized vehicle. The basic entities contained within this term are: travel trailer, camping trailer, truck camper and motor home.

5. *Transformed mobile home.* A mobile home which has been assessed as real estate for any or all of the reasons set forth in Chapter 700, RSMo., as amended.

MOTEL

A building or group of buildings including either separate cabins or a connected row of cabins or rooms which contain individual sleeping accommodations for transient occupancy and have individual entrances.

MOTOR VEHICLE REPAIR SHOP

A building or portion of a building arranged, intended or designed to be used for making repairs to motor vehicles.

NON-CONFORMING USE

A building, structure or use of land existing at the time of enactment of the City's zoning ordinance and which does not conform to the regulations of the district or zone in which it is situated.

OVERLAY DISTRICT

A district in which additional requirements act in conjunction with the underlying zoning district or districts. The original zoning district designation and requirements do not change.

PARKING SPACE, AUTOMOBILE

Space within or on a building or a private or public parking area for the parking of one (1) automobile.

PERSON

Any individual, firm, trust, entity, partnership, public or private association or corporation.

PLAT

A map, plan or chart of the City, indicating the subdivision or resubdivision of land, intended to be filed for record and showing the location and boundaries of individual properties.

1. *Plat, final.* A finished drawing showing completely and accurately all legal and engineering information and certification necessary for recording, including the bill of assurance.

2. *Plat, preliminary.* A drawing which shows the proposed layout of a subdivision in sufficient detail to indicate unquestionably its workability in all aspects, but is not in final form for recording and the details are not completely computed.

SIGN

Any words, numerals, figures, devices, designs or trademarks by which anything is made known, such as are used to designate an individual, a firm, profession, business or commodity and which are visible from any public street or air. The following definitions apply to these terms when used in the sign ordinance codified in this Chapter:

1. *"A" frame sign.* A sandwich board, sidewalk or curb sign that is constructed of solid material on both faces and hinged at the top so as to form the letter "A".

2. *Animation.* Any action or motion other than flashing lights, automatic changeable copy or indexing, in an attempt to develop a pictorial scene through mechanical or electrical means.

3. *Attached sign.* Any sign substantially and permanently attached to, applied on, structurally connected to, painted on, engraved on, etched on or supported by any part of a building.

4. *Awning sign.* A sign that is part of a fabric or other non-structural awning.

5. *Balloon.* Any cold or forced-air envelope of material, which when filled with or is in constant process of being filled with normal atmosphere (hereinafter referred to as "cold air") billows to a point of stretching the envelope to its fullest extension and causing the envelope to provide moderate retention of the cold air forced into it.

6. *Banner.* A temporary paper, plastic or cloth device hung to attract attention to a business or special event.

7. *Bench sign.* A sign located on the seat or back of a bench placed on or adjacent to a public right-of-way; a type of street furniture.

8. *Billboard or poster panel.* A non-accessory sign or sign structure upon which advertising may be posted, painted or affixed and which is designed for the rental or lease of the sign space for advertising not related to the use of the property upon which the sign is located; not an off-site sign.

9. *Building Code.* The Building Code of the City, with the Electrical, Plumbing, Fire and any other related codes adopted by the City Council, and any regulations adopted in conformance therewith.

10. *Building-mounted sign.* A sign that is applied or attached to a building.

11. *Business area.* Any zoning district designated under the zoning ordinances of the City for office, commercial or industrial use such as "C-1" through "C-3" and "I-1" through "I-3". Businesses operating under a special use permit must follow the Sign Code for the zone in which it is located.

12. *Canopy sign.* A sign on or attached to any overhead protective structure that is constructed in such a manner as to allow pedestrians and vehicles to pass under it.

13. *Code Enforcement Officer.* Any inspector assigned by the City administration to perform inspections for compliance with the City Code.

14. *Commercial sign.* A sign for any activity relating to the sale of goods or services.

15. *Commercial location.* Any building used for commercial purposes and zoned "C-1" through "C-3" or any of the planned districts overlay zones within each category with single- or multiple-occupancy or strip commercial center or mall.

16. *Conforming sign.* A sign that is legally installed in accordance with local, State and Federal permit requirements and laws.

17. *Copy.* Any letters, figures, characters, representations, pictures or wording on a sign including any identification, description, symbol, trademark, object, design, logo, illustration or device, illuminated or non-illuminated which directs attention to a product, service, place, activity, person, institution, business or solicitation including any permanently installed or situated merchandise or any emblem or painting designated to advertise, communicate, identify or convey information.

18. *Detached sign.* Any sign other than an attached sign, including any inoperable vehicle or any trailer located for the primary purpose of advertising.

19. *Directional sign.* Any sign designed to provide direction to pedestrian or vehicular traffic. Also see "traffic flow information sign".

20. *Directory board.* Any sign erected on the premises of a multi-tenant shopping center or strip center that identifies the location and/or the names of the tenants thereof. Also see "Kiosk".

21. *Double-faced sign.* A sign with two (2) parallel faces.

22. *Electronic message center.* See "Time and temperature display".

23. *Flashing light.* A continuously intermittent light or sequential light, but not including animation or lighting changes which change the copy of a sign.

24. *Freestanding sign.* A sign which is self-supported by a pole or post and not attached to any building, wall or fence, but in a fixed location.

25. *Glaring illumination.* Light of such brilliance and so positioned as to blind or impair vision.

26. *Ground sign.* An outside sign identifying a development, industrial business, service or homemade of brick, masonry or stone, the bottom of which is attached directly and permanently to the ground with no visible support structure and physically separated from any other structure.

27. *Ideological and non-commercial sign.* A sign that does not name or advertise a product, service or business, but only expresses a viewpoint, non-commercial message, opinion or idea. This includes commemorative plaques, historic markers, holiday decorations, political signs, political or fraternal flags, emblems or protective signs, which are commonly associated with safeguarding the permitted uses of premises including, but not limited to, "vicious dog", "no trespassing", "neighborhood watch" and "authorized parking only".

28. *Illegal sign.* A sign unlawfully erected or maintained in violation of a Federal, State or municipal law.

29. *Interior sign.* A sign that is located inside of a building or other facility.

30. *Internal illumination.* An internally illuminated graphic with the light source concealed or contained within the graphic itself and which becomes visible in darkness by shining through a surface.

31. *Kiosk.* A freestanding structure designed to provide space for two (2) or more activities or businesses to advertise their name on single premises or group of contiguous premises. Also see "Directory board".

32. *Logo.* A design or symbol that represents a product, identity or service.

33. *Lot.* A parcel of land under one (1) ownership, designated as a separate and distinct tract and identified by a tract, lot number or symbol in a duly approved subdivision plat of record or on tax records.

34. *Maintenance.* The repair or replacements in kind of individual sign components including paper, fabric or plastic copy panels; electrical wiring and bulbs, or paint, stucco or other exterior finishes. This definition shall not include the replacement of metal or wood cabinets, structural faces, supporting structural members, primary uprights, posts and poles, or the sign in its entirety.

35. *Marquee.* Sign painted on, attached to or consisting of interchangeable letters on the face of a freestanding or a permanent overhanging shelter that projects from the face of a building.

36. *Maximum effective area.* The area enclosed by the maximum imaginary rectangle or combination of contiguous rectangles composed of vertical and horizontal lines which fully contain all extremities of the sign.

37. *Menu board.* A variable-message sign that allows a retailer to list products and prices (for example, the bill of fare of a fast-food restaurant).

38. *Mobile sign.* A portable sign mounted on a moving structure or vehicle.

39. *Monument sign.* A ground sign with a low overall height.

40. *Non-business area.* Area within "A-1", "R-1" through "R-3", "M" or zoning district overlay within each category as defined in the zoning ordinance of the City, including areas therein where legal nonresidential users are present.

41. *Non-commercial.* Relating to public services, religion, charity, ideas, education or similar items.

42. *Non-conforming sign.* A sign that was legally erected and maintained but does not comply with the current Sign Code.

43. *Off-site sign.* A sign whose message and design relates to a business, profession, product, service event, activity or other commercial activity that is not sold, produced, manufactured, furnished or conducted at the property upon which the sign is located; not a billboard.

44. *Official business directional sign.* A sign erected and maintained within the public right-of-way to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services, and points of scenic, historical, cultural, recreational, educational or religious interest. Such signs shall comply with all applicable state regulations regarding the placement of signs in public rights of-way.

45. *On-premise sign.* Any sign designating the name of the owner or occupant of the premises upon which the sign is placed or identifying such premises or advertising goods manufactured or produced or services rendered on or listing the sale or lease of the premises upon which the entire sign is located.

46. *Painted building sign.* A sign directly painted upon the surface wall of a structure for purposes of advertisement.

47. *Permanent sign.* A sign attached to a building, structure or to the ground in a manner that enables the sign to resist environmental loads, such as wind, and that precludes ready removal or movement of the sign.

48. *Pole sign.* A freestanding sign with a visible support structure.

49. *Political sign.* Any sign that advertises a candidate or an issue, which is to be voted on in a local, State or Federal election.

50. *Portable sign.* A sign that is easily moved from one (1) location to another including signs which are mounted on skids, trailers, wheels, legs or stakes and which is not fixed permanently to the ground. It does not include an attached ideological or non-commercial sign or a sign that refers to the sale or lease of the premises. A portable sign is not intended to become a permanent sign.

51. *Premises.* Any tract of land consisting of one (1) or more lots under single or multiple ownership which operates as a functional unit. When developed, premises shall also possess one (1) or more of the following criteria:

    a. Shared parking;

b. Common management;

c. Common identification;

d. Common access;

e. Shared on-site traffic or pedestrian circulation.

52. *Projecting sign.* An on-premises sign suspended from or supported by a building or structure and projecting from the face of the building or structure to which it is attached.

53. *Public way.* A way designed for vehicular or pedestrian use and maintained with public funds.

54. *Roof sign.* A building-mounted sign erected upon and completely over the roof of the building.

55. *Safety control sign.* Warning, control, OSHA or required public safety signs.

56. *Sign.* Including, but not limited to, any device, flag, light, figure, picture, letter, word, message, symbol, plaque or poster visible from outside the site on which it is located and designed to inform or attract the attention of persons not on that premises, excluding those lights and landscape features which display no words or symbols, works of art which display no word or additional symbols and temporary holiday decorations.

57. *Sign area.* The face of a sign, including copy, insignia, background, structural supports and borders. The structural support shall be excluded if they do not constitute a major part of the sign or if the structure is not used to identify or attract attention to the business or product.

58. *Sign face.* The surface of a sign on which the advertising message is displayed. A sign may have more than one (1) face. Also see "Face".

59. *Sign height.* The vertical distance to the top of the sign measured from the nearest curb, sidewalk or street grade.

60. *Sign structure.* Means any pole, post, strut, cable or other structural fixture or framework necessary to hold or secure a sign, providing that the fixture or framework is not imprinted with any picture, symbol or work using characters in excess of one (1) inch in height and is not internally or decoratively illuminated.

61. *Street grade.* The highest altitude of the street vertically under any portion of the sign or its supports.

62. *Street line.* The dividing line between the street and the abutting property. This shall mean the property line between the street right-of-way and the adjacent property.

63. *Temporary commercial sign.* Any sign, banner, flag, pennant or valance constructed of cloth, canvas, light fabric, cardboard and wallboard or other light materials with or without frames which is not permanently secured, intended to promote or provide information concerning a sale, event or activity, which is occurring or shall occur on the property where the sign is displayed. A temporary sign shall not be deemed to be a portable sign. A temporary sign is not intended to become a permanent sign.

64. *Time and temperature display.* A variable-message sign that displays current time, temperature and messages in a stationary or alternating manner. Also known as an electronic message center.

65. *Traffic control sign.* A sign regulating traffic that has been erected by municipal or State officials having jurisdiction over the public way.

66. *Traffic flow information sign.* A sign directing traffic to or from or within or providing information for a commercial, residential or industrial development.

67. *Variance.* Special administrative procedure by which one may obtain an exception to zoning rules such as size, height, setback and type of use.

68. *Wall sign.* A building-mounted sign either attached to or displayed on or painted on an exterior wall in a manner parallel with the wall surface, and not projecting more than sixteen (16) inches from such surface.

69. *Window sign.* A sign that is painted on, attached to or suspended directly behind or in front of a window or glass portion of a door.

STORY

That portion of a building included between the surface of any floor and the surface of the next floor above it or, if there be no floor above it, then the space between such floor and ceiling next above it. A top story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first (1st) story is a half story when between fifty and seventy-five percent (50%—75%) of the area of its exterior walls are exposed to outside light and air entirely above grade and which exterior walls contain windows or doors permitting the entrance of daylight and outside air.

STREET

Any public or private right-of-way which affords the primary means of access to abutting property.

STREET EASEMENT

All paved, unpaved and utility easements.

STREET LINE

The legal line between street right-of-way and abutting property.

STRUCTURE

Anything constructed or erected which requires location on the ground or attached to something having a location on the ground.

SUBDIVIDER

Any person, individual, firm, partnership, association, corporation, estate or trust or any other group, entity or combination acting as unit dividing or proposing to divide land so as to constitute a subdivision as herein defined and including any agent of the subdivider.

SUBDIVISION

Any division of a lot, tract or parcel of land either by platting or by metes and bound into two (2) or more lots or parcels for purpose of transfer of ownership or development. The term *"subdivision"* shall apply also to any division of land for agricultural purposes into lots or parcels of five (5) acres or more shall not be deemed a subdivision unless street dedication or the installation of utilities are involved. The term, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

TERRITORIAL JURISDICTION

All land lying within the corporate limits of the City.

TOURIST CAMP

Land used or intended to be used by campers or for trailers, tents or movable dwellings; two (2) or more trailers shall constitute a tourist camp.

TOWERS

1. *Alternative tower structure.* A structure such as clock towers, sculptures, bell steeples, light poles and similar alternative-design mounting structures that conceal the presence of antennas or towers and are architecturally compatible with the area.

2. *Antenna.* A specific device the surface of which is used to receive or capture incoming and/or to transmit outgoing radio-frequency (RF) signals, microwave signals or other communications energy transmitted from or to be received by other antennas. Antennas regulated by this Chapter include the following:

    a. Omni-directional (or "whip") antennas designed to receive and/or transmit signals in a three hundred sixty-degree (360°) pattern, up to twenty (20) feet in height or length and up to approximately five (5) inches in diameter.

    b. Directional (or "panel") antennas designed to receive and/or transmit signals in a directional pattern which is less than three hundred sixty degrees (360°), typically an arc of approximately one hundred twenty degrees (120°).

    c. Parabolic (or "dish") antennas generally bowl-shaped devices that are designed to receive and/or transmit signals in an approximate specific direction.

3. *Antenna array.* Two (2) or more devices used for the transmission or reception of radio frequency (RF) signals, microwave or other signals for commercial communications purposes and may include omnidirectional antennas (whip), directional antennas (panel), parabolic (dish) antennas and ancillary antennas. Two (2) or more antennas situated or mounted upon or attached to a single platform or mounting structure which is affixed or attached to the top of an antenna support structure or midway thereon or to an alternative antenna support structure, including the roof of a flat-roofed building, are included in the definition of antenna array.

4. *Antenna support structure.* A structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennas at a height, altitude or elevation which is significantly above the base of such structure. Antenna support structures include the following:

a. *Lattice tower.* A vertical support structure consisting of a network of crossed metal braces forming a tower which may be three (3), four (4) or more sided.

b. *Monopole tower.* A vertical support structure consisting of a single vertical metal, concrete or wooden pole, pipe, tube or cylindrical structure, typically round or square, and driven into the ground or mounted upon or attached to a foundation.

5. *Co-location.* The use of a single antenna support structure, alternative antenna support structure or an underground conduit or duct by more than one (1) wireless communications service provider to accommodate wireless communications facilities of two (2) or more wireless communications service providers.

6. *Equipment enclosure.* A small structure, shelter, cabinet, box or vault designed for and used to house and protect the electronic equipment necessary and/or desirable for processing wireless communications signals and data, including any provisions for air-conditioning, ventilation or auxiliary electricity generators.

7. *Facilities.* The plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, antennas of all descriptions, electronic and mechanical equipment and devices, buildings and similar structures used or useable in the business by which they are owned, operated or maintained.

8. *Pre-existing towers and antennas.* Any tower or antenna on which a permit has been properly issued prior to the effective date of this Section.

9. *Telecommunications tower.* Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, personal communications service towers (PCS), microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. This definition does not include any structure erected solely for a residential, non-commercial individual use, such as television antennas, satellite dishes or amateur radio antennas.

10. *Wireless communications facility.* An unstaffed facility for the transmission and/or reception of radio frequency (RF), microwave or other signals for commercial communications purposes typically consisting of an equipment enclosure, an antenna support structure or an alternative antenna support structure and one (1) or more antennas.

11. *Wireless communications service.* The providing or offering for rent, sale, lease or in exchange for other consideration of the transmittal and reception of voice, data, image, graphic and other information by the use of wireless communications facilities; this term includes any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed.

12. *Wireless communications service provider.* Every person who provides wireless telecommunications service as a business, for rent, sale, lease or in exchange for other consideration through the use of wireless communications facilities, whether or not such facilities are owned by or under the control of such person.

USE

The purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.

VARIANCE

A variation from a specific zoning requirement applied to a specific piece of property, as distinct from rezoning.

YARD

An open space at grade between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width or depth of yard, the least distance between the lot line and the building shall be used.

Article II. Establishment of Districts and District Provisions

Section 405.030. General Provisions.

A. *Zones.* The following zones and regulations are imposed within the incorporated limits of the City:

(1) Residential District, designated as R-l and R-2:

(2) Mixed-use District, designated as M

(3) Open Space District, designated as O

(4) Commercial District, designated as C-1, C-2, and C-3

(5) Industrial District, designated as I1, I2, and I3

B. *Zoning Map.* Said districts are bounded and defined as shown on a map entitled "Zoning Map for the City", adopted by the City Council and certified by the City Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of the zoning law and regulation of the City. The Zoning Map shall be kept and maintained by the City Clerk and shall be available for inspection and examination by members of the public at all reasonable times as any other public record.

C. *Rules For Interpretation Of District Boundaries.* Where uncertainty exists with respect to the boundaries of any of the aforesaid districts, the following rules shall apply:

1. Where district boundaries on the Zoning Map are indicated as approximately following the centerlines of streets, streams, highways or railroads, such boundaries shall be deemed to be located at such midpoints.

2. Where district boundaries are so indicated that they approximately follow lot lines or section lines, such lines shall be construed to be said boundaries.

3. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the City unless otherwise indicated.

D. A structure or the use of a structure or premises which was lawful before the passage or amendment of the zoning ordinance but which is not in conformity with the provisions of this Article may be continued subject to the following conditions:

1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to the zoning ordinance. The City Water Department shall notify the Building Official in writing of instances where City services have been discontinued for a period of six (6) months.

2. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

E. In interpreting and applying the provisions of this zoning ordinance, the provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not the intent of this zoning ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties or any Statute, local ordinance or regulation, except that, if this zoning ordinance imposes a greater restriction or higher standard, this zoning ordinance shall control.

F. If any Section, Subsection, sentence, clause or phrase of this zoning ordinance is for any reason held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this zoning ordinance.

G. All rights or remedies of the City are expressly saved as to any and all violations of previous zoning regulations or amendments thereto that have accrued at the time of the effective date of this zoning ordinance; and to such accrued violations, the City and the courts shall have all the powers that existed prior to the effective date of this zoning ordinance; and such accrued violation shall not become legal non-conforming uses under this zoning ordinance but shall be violations of this zoning ordinance in the same manner that they were violations of prior zoning regulations.

Section 405.040. Application of Regulations.

Except as hereinafter provided, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

Section 405.050. Open Space District.

A. *General Description.* This district is intended to provide a zoning area within the jurisdictional limits of the city that is used for nature preservation, community gathering, community betterment, or aesthetic agriculture/landscaping purposes. The property may or may not be undergoing urbanization in the foreseeable future. It is not intended that this district provide a location for a lower standard of residential, commercial, or industrial development than is authorized in other districts.

B. *Uses permitted. In District O, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses.*

1. Public parks, public playgrounds, and recreational areas
2. Athletic fields
3. Fish hatcheries, apiaries, aviaries;

4. Fishing lakes and picnic groves; provided not concession or retail sales shall be permitted;

5. Forests and wild life reservations, or similar conservation projects

6. Temporary uses for community welfare, which may include concession or retail such as organized festivals and events may be permitted by prior council approval

Section 405.060. "R-1" Residential Districts.

A. *General Description.* The "R-1" Residential District is intended primarily for the promotion and proper development of low-density areas of single-family dwellings. It also shall provide for those uses which reinforce residential neighborhoods.

B. *Uses Permitted.* In the "R-1" Residential District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses:

1. Single-family dwellings, including mobile homes regulated in Chapter 415

2. Public schools and institutions of higher education, public libraries.

3. Public parks and public playgrounds.

4. Municipal buildings and philanthropic or eleemosynary institutions other than camp, hospital, sanitarium, correctional institution or institutions for the insane, subject to review and permit by the Zoning and Planning Committee to insure conformity to the intent of this Section.

5. Customary home occupations, provided that there shall be no external evidence of such occupations except a small announcement of profession not over two (2) square feet in area attached to the main or accessory building.

6. Church or public building bulletin board not exceeding ten (10) square feet in area and temporary signs not exceeding six (6) square feet in area pertaining to the lease, hire or sale of the building or premises where the sign is located.

7. Temporary building for uses incidental to construction work, which buildings shall be immediately adjacent to said construction work and which buildings shall be removed upon completion or abandonment of the construction work.

8. Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.

9. *Group homes.* No group home shall be located within two thousand five hundred (2,500) feet of another group home. The exterior appearance of the home and property shall be in reasonable conformance with the general neighborhood standards. Group homes shall be eleemosynary or not-for profit in nature.

C. *Area Regulations.*

1. *Required lot area.*

a. Single-family dwelling, not served by sanitary sewer system, one (1) acre, unless a County and/or State Health Officer approves a sanitary system that can be installed on a lesser-sized lot.

b. Dwelling served by sanitary sewer system must meet required minimal setbacks and structure size as indicated below.

c. *All other permitted uses.* The area and sanitation system requirements as approved by the County and/or State Health Officer and Zoning and Planning Committee.

2. *Percentage of lot coverage.* All buildings, including accessory buildings, shall not cover more than forty percent (40%) of the area of the lot. Detached accessory buildings, not used as dwellings, can be located in a rear yard and shall have clearance of at least five (5) feet from side to rear lot lines and may not be located within a public easement. An accessory building attached in any structural manner to the principal structure must conform to the side and rear requirements for principal structures.

3. *Yard required.* Each lot shall have front, side and rear yards not less than the depth or width following:

a. Front yard depth fifteen (15) feet.

b. Each side yard width to be a minimum of eight (8) feet per side.

c. Rear yard depth fifteen (15) feet.

d. *Height Regulations.* No building shall be erected or enlarged to exceed two and one-half (2½) stories, excluding basement or twenty-five (25) feet.

e. *Parking Regulations.* See supplemental regulations on Off-Street Automobile and Vehicle Parking and Loading, Section 405.240.

f. *Variance.* In the event that a request for a building permit has been denied by the City, variances to the requirement of Subsections (A), (B), (C), (D) and (E) of this Section may be granted by the Board of Adjustment to insure conformity to the intent of this Section.

g. *Living area regulations.* No dwelling with a total living area of less than nine-hundred (900) square feet in size shall be erected or placed upon any lot within the city.

Section 405.070. "R-2" Two-Family Residential Districts.

A. *General Description.* The "R-2" Residential District is intended primarily for the promotion and proper development of moderate density residential areas consisting of primarily two-family dwelling units. This district may include entire neighborhoods or, when used in accordance with the intent of the Comprehensive Plan, may provide a "buffer" district between lower and higher density residential districts.

B. *Uses Permitted.* In the "R-2" Residential District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses:

1. All uses permitted in "R-1" Districts, subject to all the restrictions specified in said "R-1" Districts.

2. Two-family dwellings, including mobile homes regulated in Chapter 415

C. *Area Regulations.*

1. *Required lot area.*

   a. Each single-family dwelling shall be located on a lot of the same area and width as required for "R-1" Districts.

   b. Each two-family dwelling shall be located on a lot having an area of at least nine thousand (9,000) square feet and an average width of at least sixty-five (65) feet.

2. *Percentage of lot coverage.* Same as "R-1" District.

3. *Yards required.* Same as "R-1" District.

D. *Height Regulations.* Building height will be the same as "R-1" District.

E. *Parking Regulations*. See supplemental regulations on Off-Street Automobile and Vehicle Parking and Loading, Section 405.240.

F. *Variances.* Same as "R-1" District.

G. Living *area regulations. Same as "R-1" District.*

Section 405.075. "R-3" Multi-Family Residential Districts.

A. General Description. The "R-3" Residential District is intended primarily for the promotion and proper development of high-density residential areas with residential options including single-family dwellings, two-family dwellings (duplexes), condominiums and garden apartments along with facilities necessary to support a balanced residential community.

B. Uses Permitted. In the "R-3" Multiple-Family Residential District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses:

1. All uses permitted in "R-2" Districts, subject to all of the restrictions specified, therefore.
2. Multiple-family dwelling, apartment house.
3. Rooming or boarding house.
4. Institution of an educational, philanthropic or eleemosynary nature.

C. Use Permitted on Review. Nursing home or home for the aged.

D. Area Regulations.

1. Required lot area. No dwelling shall be established on a lot having an area or width less than specified for single-family residences in "R-1" Districts, provided however, that each separate development shall not exceed a density of twelve (12) dwelling units per gross acre of lot.
2. Percentage of lot coverage. All buildings, including accessory buildings, shall not cover more than forty percent (40%) of the area of the lot.
3. Yard required. Each lot shall have front, side and rear yards not less than the depth or width following:

a. Height: Buildings or structures shall not exceed 45 feet or three and one-half (3 1/2) stories, whichever is less.

b. Front Yards: 25 feet for the first thirty-five feet of building height with (1) additional foot of setback for each additional two (2) feet of building height above thirty-five feet.

c. Side Yards: 10 feet for the first 35 feet of building height except that not less than 15 feet, shall be provided on the street side of a corner lot. For buildings with a height of more than 35 feet, one (1) additional foot of setback shall be added for each additional two (2) feet of building height above 35 feet.

d. Rear Yards: 25 feet for the first 35 feet of building height with one (1) additional foot of setback for every two (2) feet of building height above 35 feet.

4. Distance between buildings on same plot. No principal building shall be closer to any other principal building than the average of the heights of said buildings.

E. Height Regulations. Building height may be three (3) stories but not exceeding forty (40) feet.

F. Parking Regulations. No front yard shall be used for the parking or storage of any motor vehicle. See supplemental regulations on Off-Street Automobile and Vehicle Parking and Loading for all other information, Section 405.280

G. Variances. Same as "R-1" District

Section 405.080. "C-1" Neighborhood Commercial Districts.

A. *General Description.* The "C-1" Neighborhood Commercial District is for the conduct of retail trade and to provide personal services to meet the regular needs and for the convenience of people of adjacent residential areas. Because these shops and stores may be an integral part of the neighborhood closely associated with residential, religious, recreational and educational elements, more restrictive requirements for air, light, open space and off-street parking are made than are provided in other commercial districts.

B. *Uses Permitted.* In the "C-1" Neighborhood Commercial District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses:

1. Automobile parking lot or parking garage.

2. Food retail and drug stores.

3. Personal service uses including bank, shoe repair, beauty parlor, barber shop, professional offices and clinics.

4. Laundromat and dry-cleaning outlets.

5. Restaurants, lunch rooms and boarding houses.

6. Undertaking establishments.

7. Accessory retail or service uses that are necessary for convenience of residential districts subject to the review by the Board of Adjustment to insure conformity to the intent of this Chapter.

8. Accessory residential use when owner or operator of commercial use has a dwelling unit contiguous to business establishment.

C. *Uses Permitted Upon Review.* Other uses of the same general character as those listed above.

D. *Area Regulations.*

1. *Required lot area.*

a. If served by a sanitary system, the required lot area must be seven thousand five hundred (7,500) square feet.

b. If not served by a sanitary system, the required lot area must be approved in writing by a County and/or State Health Officer, which approval shall be filed with the City Clerk before a building permit shall be issued.

2. *Percentage lot coverage.* All buildings, including accessory buildings, shall not cover more than forty percent (40%) of the lot.

3. *Yard required.* Each lot shall have front, side and rear yards not less than the depth or width following:

a. Front yard depth of twenty-five (25) feet; however, a fifteen (15) foot yard depth on a corner lot may be permitted if no off-street parking is to be located within the yard.

b. Side yard depth of eight (8) feet, except that where the property abuts a residential district, a side yard shall be required the same as required in the district it abuts. A side yard, the same as a front yard, shall be required on the side street of a corner lot.

c. Rear yard depth of ten (10) feet, except that where the property abuts a residential district, a rear yard shall be required the same as required in the district it abuts. The rear yard must be kept free and clear of obstruction for fire access unless it abuts an alleyway that can be used for this purpose.

E. *Height Regulations.* No building shall exceed twenty-five (25) feet or two and one-half (2½) stories in height.

F. *Parking And Loading Regulations.* See supplemental regulations on Off-Street Automobile and Vehicle Parking and Loading, Section 405.240.

G. *Sign Regulations.* Name plates and signs relating only to the use of the store and premises or to products sold on the premises are permitted. Lighted signs of flashing or intermittent type shall be prohibited, provided however, that this shall not prevent the use of animated signs located entirely within the building which can be seen only from the street side of the building.

H. *Variances.* Variances to the requirement of Subsections (C), (D), (E), (F) and (G) of this Section may be granted by the Board of Adjustment to insure conformity to the intent of this Section.

Section 405.090. "C-2" General Commercial Districts.

A. *General Description.* The "C-2" General Commercial District is intended for the conduct of personal business services and the general retail business of the community. Persons living in the community and in the surrounding trade territory require direct and frequent access. Traffic generated

by the uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery.

B. *Uses Permitted.* In the "C-2" General Commercial District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses:

1. All uses permitted in "C-1" Neighborhood Commercial District.
2. Hardware and household appliance sales and repair stores.
3. Clothing and accessory goods stores.
4. Furniture and home furnishings stores.
5. Gift and bookstores.
6. Jewelry and watch repair stores.
7. Sporting goods and photo supply stores.
8. Variety stores.
9. Financial institutions.
10. Public recreation and assembly halls, including clubs, lodges, bowling alleys, theaters, billiard or pool parlors.
11. Hotels, motels and tourist homes.
12. Newspaper plants and printing shops.
13. Automobile service stations, provided storage tanks are underground.
14. Accessory wholesale and service uses necessary for convenience of the general public subject to conditions deemed appropriate by the Zoning and Planning Committee to insure conformity to the intent of this Chapter.
15. Any other store or shop for retail trade or for rendering personal, professional or business service which does not produce more noise, odor, dust, vibration, blast or traffic than those set forth above in this paragraph.

C. *Uses Permitted On Review.*

1. Apartments located above the first (1st) floor of a commercial establishment.
2. Those activities that require outdoor display of goods or items for the purpose of sale or purchase including, but not limited to, the following:
    a. Boat sales.
    b. Farm implement and machinery.
    c. House trailer sales.
    d. Metal and wood fencing, ornamental grillwork and decorative wrought iron work, and play equipment sales.

e. Monument sales.

f. New and used car and truck sales.

g. Prefabricated house sales.

h. Trailers for hauling, rental and sales.

i. Nursery and garden sales.

j. Car wash.

k. Amusement enterprises.

l. Garages.

m. Drive-in restaurants or theaters.

n. Bus terminals.

3. The foregoing uses described in Subparagraph (2) shall comply with the following provisions:

a. All open storage and display of merchandise, material and equipment shall be so screened by ornamental fencing or evergreen planting that it cannot be seen by a person standing on ground level in a residential district when located to the side or rear of the lot on which said open storage or display occurs, provided however, that screening shall not be required in excess of seven (7) feet in height. All planting shall be kept neatly trimmed and maintained in good condition at all times. Merchandise and materials which are not completely assembled or which are not immediately and actively being offered for sale shall, in addition to complying with the above screening requirements, be so screened by ornamental fences or evergreen planting or by permanent buildings so that such cannot be seen from a public street.

b. All servicing of vehicles and assembly of equipment carried on as an incidental part of the sales operation shall be conducted within a completely enclosed building.

c. Driveways used for ingress and egress shall not exceed twenty-five (25) feet in width, exclusive of curb returns.

d. Outdoor lighting, when provided, shall have an arrangement of reflectors and an intensity of lighting which will not interfere with adjacent streets and shall not be of a flashing or intermittent type.

e. Any other conditions reasonably imposed by the Zoning and Planning Committee. In the event that a request for a building permit has been denied by the Building Official, appeal of such denial may be made by application for a variance to the Board of Adjustment.

D. *Area Regulations.* Same as "C-1" District.

E. *Height Regulations.* No building shall be erected or enlarged to exceed, excluding basement, thirty-five (35) feet.

F. *Parking And Loading Regulations.* See supplemental regulations on Off-Street Automobile and Vehicle Parking and Loading, Section 405.240.

G. *Storage Regulations.* See Section 405.120(C)(3)(a).

H. *Variances.* Variances to the requirements of Subsections (C), (D), (E) and (F) of this Section may be granted by the Board of Adjustment to insure conformity to the intent of this Section.

Section 405.100. "C-3" Planned Shopping Center District.

A. *General Description.* The "C-3" Planned Shopping Center District is intended for a unified grouping, in one (1) or more buildings, of retail shops and stores that provide for the regular needs and are for the convenience of the people residing in the adjacent residential neighborhoods. It is intended that the planned shopping center be developed as a unit, with adequate off-street parking space for customers and employees, and with appropriate landscaping and screening materials.

B. *Uses Permitted.* In the "C-3" Planned Shopping Center District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses, provided that these uses shall be located in a unified shopping center which shall have not less than five (5) shops and stores, at least one (1) of which shall be a major outlet of not less than ten thousand (10,000) square feet of gross floor area, with the shops and stores of the shopping center having a combined total gross floor area of not less than twenty thousand (20,000) square feet:

1. Antique shop.
2. Appliance store.
3. Apparel store.
4. Artist supplies.
5. Automobile parking lot.
6. Bakery goods store.
7. Bank.
8. Barber shop.
9. Beauty shop.
10. Book or stationery store.
11. Camera shop.
12. Candy store.
13. Catering establishment.
14. Cleaning and pressing collection station.
15. Curio shop.
16. Drug store.
17. Dry goods store.
18. Dairy products or ice cream store.
19. Delicatessen.

20. Florist shop.
21. Furniture store.
22. Gift shop.
23. Grocery store.
24. Hardware store.
25. Jewelry store.
26. Meat market.
27. Medical facility.
28. Music store.
29. Newspaper or magazine sales.
30. Notions store.
31. Office supply store.
32. Optometrist sales and service.
33. Paint and decorating shop.
34. Photographer studio.
35. Pharmacy.
36. Radio and television sales and service.
37. Restaurant.
38. Self-service laundry.
39. Sewing machine sales and service.
40. Sporting goods sales.
41. Shoe store or repair shop.
42. Specialty shop for women.
43. Supermarket.
44. Tailor shop.
45. Toy store.
46. Other uses of the same general character as those listed above, subject to restrictions and conditions deemed appropriate by the Zoning and Planning Committee and set forth in the planned shopping center permit.
47. Office uses, provided that the total gross floor area of all office uses, exclusive of those listed in (1) through (46) above, shall not exceed twenty percent (20%) of the gross floor area of the shopping center.

48. Gasoline service or filling station which shall be planned as an integral part of the center but may be constructed in advance.

49. Advertising signs relating to the shopping center, the stores and shops therein, and the products sold therein. All advertising signs and structures shall be designed as an integral part of the shopping center development and shall be harmonious with the other design features of the center.

50. Accessory buildings and uses customarily incidental to the above uses.

C. *Administrative Procedure.*

1. The developer shall first make an application to the City for a planned shopping center permit for construction of a shopping center under this Section. The application shall include the following in addition to the administrative requirements set forth in this Chapter:

a. The developer shall submit site plans of the proposed development which shall be drawn to a scale of not less than one (1) inch equals fifty (50) feet and which shall show the arrangement of the buildings, design and circulation pattern of the off-street parking area, landscaped yards, ornamental screening, service courts and utility and drainage easements and facilities, and the relationship of the shopping center development to adjacent areas which it may affect.

b. Evidence that indicates to the satisfaction of the Board of Adjustment the ability and intent of the developer to carry out the development of the shopping center in accordance with the plans submitted through bonding of financial disclosure.

c. *Development procedure.* The developer shall obtain a building permit for the shopping center in accordance with the requirements and procedures of this Chapter and all other applicable provisions of this Code and shall begin construction of the shopping center within three (3) years after the effective date of approval for construction of the shopping center and shall make a reasonable and continuous progress toward completion. If the shopping center is not under construction within three (3) years after the effective date of the shopping center rezoning, the Board of Adjustment shall review the status of the development and if it shall find that the development is not in conformity with the requirements of this Section, it shall report such fact and the reasons thereof to the City Council. The City Council may, at its discretion, rezone the shopping center district to a zoning district classification consistent with the master plan.

2. *Review of plan change.* Any substantial deviation from the plat or building plans approved by the Board of Adjustment shall constitute a violation of the building permit authorizing construction of the shopping center. Substantial changes in plans shall be resubmitted to the Board of Adjustment to ensure compliance with the requirements and purpose and intent of this Section, and no building permit shall be issued for any construction which is not in substantial conformity with the approved plan.

D. *Area Regulations.*

1. *Required lot area.* The parcel of land on which a planned shopping center is located shall not be less than four (4) acres in area.

2. *Percentage lot coverage.* Buildings shall not cover more than twenty percent (20%) of the site on which the shopping center is located.

3. *Yards required.* It is intended that the grouping of the buildings and parking areas be designed to protect, insofar as possible, adjacent residential areas, and that ornamental screening from noise and light be provided where necessary; however, in no case shall the design of the shopping center provide less than the following standards:

a. All buildings set back from all street right-of-way lines not less than twenty-five (25) feet.

b. On the side of a lot adjoining a dwelling district, there shall be a side yard of not less than twenty-five (25) feet.

c. There shall be a rear yard, alley, service court or combination thereof of not less than thirty (30) feet in width, and all of the service area of all buildings shall be completely screened from public view with permanent ornamental screening materials. The rear yard, alley, service court or combination thereof must be kept free and clear of obstruction for fire access unless it abuts an alleyway that can be used for this purpose.

E. *Height Regulations.* No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height; however, greater height may be permitted upon plan review, provided the height is not detrimental to surrounding land uses.

F. *Parking Regulations.* Off-street parking requirements set forth in this Chapter (see supplemental regulations on Off-Street Automobile and Vehicle Parking and Loading, Section 405.280) may be complied with by providing a permanent common off-street parking facility for all of the uses within the shopping center, provided that the lot contains the requisite number of spaces for each use. The total number of spaces provided shall not be less than the sum of the individual requirements; however, in no case shall the amount of off-street parking area, including driveways required for ingress and egress and circulation, be less than two and one-half (2½) times the gross floor area of the shopping center.

G. *Variances.* Variances to the requirements of Subsections (B), (C), (D) and (E) of this Section may be granted by the Board of Adjustment to insure conformity to the intent of this Section.

Section 405.110. "I-1" Restricted Light Industrial Districts.

A. *General Description.* The "I-1" Restricted Light Industrial District is intended primarily for production and assembly plants that are conducted so the noise, odor, dust and glare of such operation is completely confined within an enclosed building. These industries may require direct access to rail, air or street transportation routes; however, the size and volume of the raw materials and finished products involved should not produce the volume of freight generated by the uses of the heavy industrial district. Buildings in this district should be architecturally attractive and surrounded by landscaped yards.

B. *Uses Permitted Upon Review.* In the "I-1" Restricted Light Industrial District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses:

1. Assembly of electrical and mechanical appliances, instrument devices and the like.

2. Vehicle finishing, repair and the like.

3. Building material production, storage and sales uses.
4. Food distribution and storage plants.
5. Construction and agricultural equipment distribution, storage and sales use.
6. Transportation storage and trucking yards.
7. Agricultural feed and grain storage and sales.
8. Laundry, cleaning and dyeing works.
9. Sheet metal, plumbing and blacksmith shops.
10. Wholesale business, storage warehouses and the like.
11. Other uses of the same general character as those listed above which conform to restrictions deemed appropriate by the Zoning and Planning Committee.
12. Rodeo, fairgrounds, riding academies, livery or boarding stables, dog kennels.

C. *Uses Prohibited.* Those uses are prohibited which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, noise, glare or disposal of waste material.

D. *Administrative Procedure.* One (1) or more of the record owners or authorized representatives of the property shall file with the Board of Adjustment a written application for approval of a contemplated use within said district, which application shall include the following information:

1. A plot plan indicating the location of present and proposed buildings, driveways, parking lots and other necessary uses.
2. Preliminary architectural plans for the proposed building or buildings.
3. An estimate of the maximum number of employees contemplated for the proposed development and the number of shifts during which they could work.
4. Any other information the Board of Adjustment may need adequately to consider the effect that the proposed uses may have upon the environment and on the cost of providing municipal services to the area. All sewage disposal systems must be approved by the County Health Officer before a building permit is issued.

E. *Area Regulations.*

1. *Required lot area.* There is no specified minimum area. Individual building sites, however, shall be of such size that the development will have a park-like setting.
2. *Percent of lot coverage.* Building coverage shall not exceed thirty percent (30%) of the area of the lot.
3. *Yard required.* Each lot shall have front, side and rear yards not less than the depth or width following:
    a. *Front yards.* All building shall be set back from the street right-of-way line to provide a front yard having not less than twenty-five (25) feet in depth.

b. *Side yards.* No building shall be located closer than twenty-five (25) feet to a side lot line, except when adjacent to a residential district, in which case a forty (40) foot side yard width is required.

c. *Rear yards.* No building shall be located closer than twenty-five (25) feet to the rear lot line.

F. *Height Regulations.* No building shall exceed forty (40) feet in height.

G. *Parking Regulations.* Dust-proofed and properly drained off-street parking and loading facilities shall be provided in amount sufficient to meet the needs of all persons associated with the development, either as employees, customers, suppliers or visitors, and shall not cover more than forty percent (40%) of the lot. See supplemental regulations on Off-Street Automobile and Vehicle Parking and Loading, Section 405.240, for all other information.

H. *Storage Regulations.* No article or material permitted in this district shall be kept, stored or displayed outside the confines of a building unless it be so screened by fences, walls or planting that it cannot be seen from adjoining public streets or adjacent lots when viewed by a person standing on ground level.

I. *Variances.* Variances to the requirements of Subsections (B), (C), (D), (E), (F), (G) and (H) of this Section may be granted by the Board of Adjustment to insure conformity to the intent of this Section.

Section 405.120. "I-2" Light Industrial Districts.

A. *General Description.* The "I-2" Light Industrial District is intended primarily for the conduct of light manufacturing, assembling and fabrication and for warehousing, wholesale and service uses. These uses do not depend primarily on frequent personal visits of customers or clients, but may require good accessibility to major rail, air or street transportation routes.

B. *Uses Permitted Upon Review.* In the "I-2" Light Industrial District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one (1) or more of the following uses:

1. All uses permitted in the "I-1" District.
2. Building materials sales yard and lumber yard, including the sale of rock, sand, gravel and the like as an incidental part of the main business, but not including a concrete batch plant or transit mix plant.
3. Contractor's equipment storage yard or plant or rental equipment commonly used by contractors.
4. Freighting or trucking yard or terminal.
5. Oil field equipment storage yard.
6. Public utility service yard or electrical receiving or transforming station.
7. Sale barn.
8. The following uses when conducted within a completely enclosed building:

a. The manufacture, compounding, processing, packaging or of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries and food products.

b. The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stone, shell, textiles, tobacco, wood, yarn and paint not employing a boiling process.

c. The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

d. The manufacture and maintenance of electric and neon signs, commercial advertising structures, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves and the like.

e. Manufacture of musical instruments, toys, novelties and rubber and metal stamps.

f. Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing and overhauling, tire retreading or recapping and battery manufacturing.

g. Blacksmith shop and machine shop, excluding punch presses over twenty (20) tons rated capacity, drop hammers and automatic screw machines.

h. Foundry, casting lightweight non-ferrous metals not causing noxious fumes or odors.

i. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts only, such as coils, condensers, transformers, crystal holders and the like.

j. Wholesale storage or manufacture of alcoholic beverages.

9. Buildings, structures and uses accessory and customarily incidental to any of the above uses.

C. *Uses Prohibited.* Those uses are prohibited which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, glare, noise or disposal of waste materials.

D. *Administrative Procedure.* Same as "I-1" District.

E. *Area Regulations.*

1. *Required lot area.* No minimum area specified.

2. *Percent of lot coverage.* Building coverage shall not exceed thirty percent (30%) of the area of the lot.

3. *Yard required.* Each lot shall have front, side and rear yards not less than the depth or width following:

a. *Front yards.* All building shall be set back from the street right-of-way line to provide a front yard having not less than thirty (30) feet in depth.

b. *Side yards.* No building shall be located closer than ten (10) feet to a side lot line, except that where the property abuts a residential district, a rear yard shall be required the same as required in the district it abuts.

c. Rear yard depth of fifteen (15) feet, except that where the property abuts a residential district, a rear yard shall be required the same as required in the district it abuts. The rear yard must be kept free and clear of obstruction for fire access unless it abuts an alleyway that can be used for this purpose.

F. *Height Regulations.* No building shall exceed forty (40) feet in height.

G. *Parking And Loading Regulations.* See supplemental regulations on Off-Street Automobile and Vehicle Parking and Loading, Section 405.240.

H. *Storage Regulations.* Same as "I-1" Restricted Light Industrial Districts.

I. *Variances.* Variances to the requirements of Subsections (B), (C), (D), (E), (F), (G) and (H) of this Section may be granted by the Board of Adjustment to insure conformity to the intent of this Section.

Section 405.130. "I-3" Heavy Industrial Districts.

A. *General Description.* The "I-3" Heavy Industrial District is intended to provide for heavy industrial uses not otherwise provided for in the districts established by this Chapter. The intensity of uses permitted in this district makes it desirable that they be located downwind and separated from residential and commercial uses whenever possible.

B. *Uses Permitted Upon Review.* In the "I-3" Heavy Industrial District, a building or premises may be used for any purpose not otherwise prohibited by law except that no residences, motels or other places of habitation involving permanent structure are permitted; however, no building or occupancy permits will be issued for any of the following uses until and unless the location of such use shall have been approved by the Board of Adjustment:

1. Acid manufacture.
2. Cement, lime, gypsum or plaster of Paris manufacture.
3. Explosives, manufacture or wholesale storage.
4. Gas manufacture.
5. Petroleum or its products, refining of.
6. Wholesale or bulk storage of gasoline, propane or other petroleum products.
7. All uses permitted in "I-1" and "I-2" Districts.
8. The following uses, provided that the uses thereon shall be conducted in such a manner that all operations, display or storage of material shall be screened by ornamental fences, walls and/or permanent evergreen planting that it cannot be seen from a public street:
   a. Automobile salvage or junk yard.
   b. Building materials salvage yard.

c. Junk or salvage yard of any kind.

d. Public or private refuse dumps, landfills.

e. Scrap metal storage yard.

C. *Area Regulations.*

1. *Required lot area.* No minimum area specified.

2. *Percent of lot coverage.* Building coverage shall not exceed fifty percent (50%) of the area of the lot.

3. *Yard required.* Each lot shall have front, side and rear yards not less than the depth or width following:

a. *Front yards.* All building shall be set back from the street right-of-way line to provide a front yard having not less than thirty (30) feet in depth.

b. *Side yards.* No building shall be located closer than fifteen (15) feet to a side lot line, except that where the property abuts a residential district, a rear yard of not less than forty (40) feet shall be required.

c. *Rear yard.* All buildings shall be set back fifteen (15) feet, except that where the property abuts a residential district, a rear yard of not less than forty (40) feet shall be required. The rear yard must be kept free and clear of obstruction for fire access unless it abuts an alleyway that can be used for this purpose.

D. *Height Regulations.*

1. Buildings—same as "I-2" District.

2. Outdoor stored materials—twenty (20) feet.

E. *Parking And Loading Regulations.* See supplemental regulations on Off-Street Automobile and Vehicle Parking and Loading, Section 405.240.

F. *Storage Regulations.* No article or material permitted in this district shall be kept, stored or displayed outside the confines of a building unless secured by appropriate fencing for the safety of the general public, except where the property abuts a residential district where storage of articles and materials shall be same as "I-1" District.

G. *Variances.* Variances to the requirements of Subsections (B), (C), (D), (E), (F) and (G) of this Section may be granted by the Board of Adjustment to insure conformity to the intent of this Section.

Section 405.140. "M" Mixed Use Districts.

A. General description. This district is intended to provide a zoning area within the jurisdictional limits of the city that is used for furthering the existing harmony between residential homes and commercial businesses in zones where they have already co-existed successfully. Additionally, this area aids our potential business owners who may by need or desire have reason to live on business property. It is not intended that this district provide a location for a lower standard of residential or commercial than is authorized in these districts individually.

B. Uses permitted. In District M, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the uses listed in the R1, R2, C1, or C2 regulations or a combination of the two (residential and commercial). All R and C regulations must be observed.

Article III. Supplementary Regulations

Section 405.150. Regulations Supplement City Zoning Ordinance.

The provisions of the City zoning ordinance shall be subject to the exceptions, additions or modifications provided in and by the following regulations.

Section 405.160. Sign Regulations.

A. *Purpose.* The purpose of this Section is to promote guidelines for the erection and use of signs, symbols, markings and advertising devices within the City of Carterville. These guidelines are designed to protect and promote public welfare, health and safety of persons within the community and to aid in the development and promotion of business and industry by providing sign regulations that encourage aesthetic creativity, effectiveness and flexibility in the design and use of such devices without creating a detriment to the general public.

B. *Applicability.* The provision of this Code shall apply to the construction, erection, alteration, use, location and maintenance of all signs located out-of-doors.

C. *Administration And Enforcement.* This Section shall be administered by City staff subject to the oversight of the City Council and shall be enforced by the Code Enforcement Officer in the following manner:

1. The Code Enforcement Officer, upon finding that any provision of this Section or any condition or a permit issued under this Section is being violated, is authorized to institute legal proceedings to enjoin violations of this Section.
2. Fines and penalties for violations of this Section are set forth in Section 405.450 of this Chapter.
3. Any person violating any of the provisions of this Section shall be deemed guilty of a City ordinance violation. Each day of continuation of violation shall constitute a separate offense.
4. The owner of the sign and/or the operator of the business shall be jointly and severally liable for all applicable fines and fees. The City shall have the power to prosecute the owner of the sign and the owner of the business in a civil action and receive any sums due, plus a reasonable attorney's fee to be fixed by the court.

D. *Permit Required.* No person, firm or corporation shall erect, install, create by painting or relocate a sign or sign structure of any kind without a permit issued by the City of Carterville.

1. Application for a permit shall include:
    a. All requested information listed on the sign permit application.
    b. *Plan for sign.* Every application for a sign permit shall file with the application a plan showing, for each sign, the height of the sign from the street grade to the top and bottom of the sign, position of the sign; the sign legend or commercial message; sign location; dimensions; construction specifications; electrical components and wiring; method of attachment and

design of structured members to which attachment is to be made; and location of the foundation or posthole location in relation to the property line and public right-of-way, as applicable.

2. *Issuance.* If the plans and specifications accompanying the sign permit application required by this Section are in accordance with the provisions of the City Building Code, the building department will issue a sign permit.

a. Footing inspections on all detached signs, including situations where square footage or panels are added to existing detached signs;

b. Electrical inspections on all electrical or illuminated signs prior to final placement;

c. Final inspection, which shall cover the sign location, structural members and placement of the insignia.

3. *Permit number.* No portable or temporary sign shall be erected unless a self-adhesive label is permanently attached to and shall be clearly and visibly displayed at all times indicating the date and number of the permit issued therefore. A record of all permit numbers will be maintained by the City for enforcement purposes.

4. *Expiration.* A sign permit shall become null and void if the work for which the permit was issued has not commenced within six (6) months from the date the permit was issued. The sign permit may be renewed for the same project for an additional three (3) months at no additional cost. If the work is still not completed after the full nine (9) months, the project shall be required to acquire a new sign permit.

5. *Denial, suspension or revocation.* The Code Enforcement Officer shall issue a thirty (30) day written warning when a sign is found to be in non-compliance to allow it to be brought into compliance (exception would be a safety hazard). The Code Enforcement Officer at the end of those thirty (30) days may, in writing, suspend, deny or revoke a permit issued under the provisions of this Section whenever the permit is issued on the basis of a misstatement of fact, fraud or non-compliance with this Section. When the Code Enforcement Officer denies a sign permit, he shall give written notice of denial to the applicant, together with a brief written statement of the reason for the denial. Such denials shall reference the Section of the sign code or other pertinent code used as a standard for the basis of the denial. Also see Subsection (L) of this Section.

E. *Excepted Signs.* The following signs do not require permits but must meet the other requirements of this Section.

1. Customary holiday decorations.

2. House address, family name, decorative flag, no trespassing and similar signs.

3. Traffic control signs and traffic flow informational signs.

4. Official government or business directional signs.

5. The flags of any nation, State, town, military or service organization, provided such flags are flown in accordance with established protocol and are not located on flagpoles that exceed the height limitation of the zoning district, as applicable.

6. Church signs located on property owned by the church.

7. Safety control signs located on private property.

8. Public and school recreational activities support signs located on public property.

9. Subdivision entrance signs located on an area common to the development.

10. Window displays such as mannequins.

11. Non-illuminated real estate signs.

12. Political signs located on private property providing the candidate or ballot issue campaign has the permission of the property owner, meets all legal requirements of the State of Missouri, meets size requirements according to land classification, are not erected more than thirty (30) days prior to the election date and are removed within seven (7) days after the election.

13. Not-for-profit organization signs promoting a special event such as a fundraiser or charity event.

14. A-frame, sandwich board or curb signs used for commercial purposes, located within twenty (20) feet of the front of the business, displayed no earlier than 6:00 A.M., and taken inside the business no later than 10:00 P.M. daily. They must not be placed in such a manner as to block or hinder pedestrian or vehicular traffic and may not exceed fifteen (15) square feet in size.

15. Pennants, ribbons, streamers, balloons and similar sale event materials. They must be securely fastened to the ground or a fixed object and must not be a safety hazard.

16. Rummage, garage, estate sale and similar type signs may be no more than four (4) square feet in size, may be displayed a total of ninety-six (96) hours at the location of the sale and must be immediately taken down. Also see Subsection (F)(2)(a) of this Section.

F. *General Restrictions.* The following shall apply to all signs within the City limits of the City of Carterville:

1. All signs shall comply with the appropriate detailed provisions of the current Carterville Building Code relating to the design, structural members and connections. Signs shall also comply with the applicable provisions of the National Electrical Code. In addition:

a. Signs shall be anchored to prevent any lateral movement that would cause wear on supporting members or connections.

b. All signs with animation or changing light shall contain a mechanism such that the illumination between dusk and dawn shall be less bright so as not to distract drivers in the immediate area.

c. All combustible materials used in the construction of any sign must be reviewed and approved by the Code Enforcement Officer, Building and/or Electrical Inspector.

d. All electric signs shall conform in design and construction to the appropriate sections of the current National Electrical Code and the Electrical Inspector may deem other requirements as necessary.

e. Electric discharge tubing (neon, argon, etc.) not terminated in an exterior metal sign raceway shall be terminated in receptacles designed and approved for the purpose.

f. A balloon envelope filled with heated air, helium or any other gas capable of the envelope for flight of any height or duration shall be securely anchored with cables or ropes in good condition. Balloons shall maintain a distance of twenty (20) feet from overhead wires or lines.

g. Signs attached to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts or approved expansion screws of sufficient size and anchorage to support safely the loads applied.

2. No sign shall:

a. Be painted or attached to any tree, public utility pole or structure, streetlight, fence, fire hydrant, bridge, curb, sidewalk, City-owned park bench or other location on public property or be painted upon or otherwise directly affixed to any rock, ledge or other natural feature.

b. Be erected at any location where, by reason of position, shape, wording or color, it interferes with or obstructs the view of pedestrian or vehicular traffic.

c. Hide from view or be confused with any authorized traffic sign, signal or device.

d. Be closer than ten (10) feet to a side lot line except in the case of a wall sign or corner lot where a setback may be reduced to ten (10) feet from public ways.

e. Be located within fifty (50) feet of any other detached sign, except a kiosk, on the same parcel or development site.

f. Project from a building over a public way with the bottom of the sign less than ten (10) feet vertically above the ground. In no case shall the sign project over a public way which is intended for vehicular traffic.

g. Advertise any unlawful activity.

h. Occupy a parking space necessary to satisfy minimum off-street parking requirements.

i. Consist of any auditory or sound producing device.

j. Emit smoke, vapor, particles or odors.

k. Be on vehicles primarily or consistently parked for display as advertising signs.

l. Be relocated, unless permitted by this Chapter.

m. Be placed so as to prevent or inhibit free ingress to or egress from any door, window or any exit way required by the International Building Code (IBC) or Fire Department Regulations.

3. Any change in lettering, copy or facing of an existing sign shall not require an additional permit or fees as long as the size, height or location does not change. Normal maintenance and repairs shall not require a sign permit. However, this sign must continue to conform to all other provisions.

4. No person shall place or maintain upon or in view of any public way any light so that its beams or rays are directed at any portion of a public street, highway or adjacent property owners when

the light is of such brilliance and so positioned as to blind or otherwise impair the vision of the driver of any motor vehicle upon said street or highway.

5. One traffic flow, construction, real estate or special event sign is permitted on private property if authorized by the property owner. The sign must conform to the size and height requirements according to land classification. These signs shall be placed at least ten (10) feet from any public right-of-way and shall be promptly removed upon completion of the development or activity.

6. Awning signs shall be permitted for non-residential uses with these additional regulations:

   a. The sign shall be flat against the surface of the awning.

   b. The sign shall maintain a clearance of eight (8) feet above a public right-of-way.

   c. The sign shall not be closer than two (2) feet, measured in horizontal distance, from the curb line of any street.

   d. The sign shall not extend into the right-of-way.

   e. Fabric awnings may not extend more than one (1) foot below the rigid mount of the awning.

7. Canopy signs are allowed in non-residential zoning districts subject to the following:

   a. In no case shall signs extend beyond the vertical edge of the canopy to which it is attached.

   b. Signage for fuel canopies shall be limited to logo signs.

G. *General Standards.*

No person shall erect or maintain a sign on any property inside the Carterville corporate limits that is dangerous or defective. All signs and their supports, braces, connections or anchors shall be kept in good repair to prevent lateral movement of the sign. Any chipping, peeling or flaking of paint, plastic or glass or any mechanical, electrical or structural defect shall be corrected upon written notice by the Code Enforcement Officer. The Code Enforcement Officer shall give thirty (30) day written notice that a sign is not secure or in good state of repair, to the owner or person responsible for the maintenance of the sign. If the defect in the sign is not corrected at the end of that thirty (30) day period, the Officer may revoke the sign permit thus placing the sign owner in violation of this Section and subject to action under Subsection (K) of this Section.

H. *Off-Site Signs.*

1. All off-site signs must follow the size and height limitations according to land classifications.

2. The erection, construction or maintenance of off-site signs shall be limited to properties adjacent to either side of the right-of-way of roads designated as part of the Missouri Department of Transportation system or classified as a major thoroughfare by the City of Carterville and shall be limited to commercial and industrial zoning districts, unless adjacent to an interstate highway, when no zoning restriction shall apply.

3. Off-site signs shall be erected or placed in conformity with the following:

   a. In any zoning district not adjacent to an interstate highway, no off-site sign shall be placed closer than twenty-five (25) feet to any road right-of-way.

b. In any zoning district adjacent to an interstate highway, no off-site sign shall be placed closer than ten (10) feet to any road right-of-way.

c. Off-site signs erected adjacent to interstate highways shall not be located closer to another off-site sign than one thousand (1,000) feet apart. These signs shall be restricted in an area five hundred (500) feet from an exit or entrance ramp. All off-site signs must comply with State and Federal regulations.

d. Off-site signs erected adjacent to roads other than interstate highways shall not be located closer than one thousand five hundred (1,500) feet to another off-site sign on the same side of the road; nor shall such an off-site sign be located within five hundred (500) feet, as measured in any direction, of any other off-site sign.

e. No portion of an off-site sign shall be located within one hundred fifty (150) feet in any direction of a zoning district other than "C-1", "C-2", "C-3", "I-1", "I-2" or "I-3".

f. Off-site signs shall not advertise any tobacco or alcohol products. These off-site signs shall not be located within one thousand (1,000) feet of public or private schools, within five hundred (500) feet of a place of worship, within five hundred (500) feet a publicly owned recreation center or a publicly owned park.

I. *Billboard And Poster Panel Signs.*

1. The erection, construction or maintenance of billboard and poster panel signs shall be limited to properties adjacent to either side of the right-of-way of roads designated as part of the Missouri Department of Transportation system or classified as a major thoroughfare by the City of Carterville and shall be limited to the "C-2", "C-3" and all industrial zoning districts, unless adjacent to an interstate highway, when no zoning restriction shall apply.

2. Billboard and poster panel signs shall be erected or placed in conformity with the following:

   a. In any zoning district not adjacent to an interstate highway, no billboard or poster panel sign shall exceed three hundred forty (340) square feet, nor be over forty (40) feet in height from the adjacent roadway grade, nor be placed closer than twenty-five (25) feet to any road right-of-way.

   b. In any zoning district adjacent to an interstate highway, no billboard or poster panel sign shall exceed seven hundred (700) square feet, nor be over forty (40) feet in height from the adjacent roadway grade, nor be placed closer than ten (10) feet to any road right-of-way.

3. The bottom coping of every billboard and poster panel sign shall be at least ten (10) feet above ground or street level.

4. Billboard and poster panel signs erected adjacent to interstate highways shall not be located closer to any off-site, billboard or poster panel sign than one thousand (1,000) feet. These signs shall be restricted in an area five hundred (500) feet from an exit or entrance ramp. All billboard and poster panel signs must comply with State and Federal regulations.

5. Billboard and poster panel signs erected adjacent to roads other than interstate highways shall not be located closer to any off-site, billboard or poster panel sign on the same side of the road than one thousand five hundred (1,500) feet; nor shall such a billboard or poster panel sign be located within five hundred (500) feet, as measured in any direction, of any other off-site sign.

6. No portion of any billboard and poster panel sign shall be located within one hundred fifty (150) feet in any direction of a zoning district other than "C-2", "C-3", "I-1", "I-2" or "I-3".

7. No billboard and poster panel sign shall be attached to a wall, building or rooftop.

8. No billboard and poster panel sign shall advertise tobacco, distilled spirits, beer, wine or any other product that a minor cannot legally use, within one thousand (1,000) feet of public or private schools, within five hundred (500) feet of a place of worship, within five hundred (500) feet of a publicly owned recreation center or a publicly owned park designed for use by minors.

9. No billboard and poster panel sign shall advertise more than one (1) activity, business, commercial purpose, commodity, service, entertainment or product, unless both of the advertisements are owned and purchased by the same individual or company and then shall be limited to two (2) such advertisements on any one (1) sign.

10. No billboard and poster panel signs shall be stacked one above the other nor set beside one another at the same location.

J. *Non-Conforming Signs.*

1. If at the time of the adoption of this Section or amendments thereto or of any extension resulting from annexation or of any amendment to the Carterville Code, any sign which is being used in a manner or for a purpose which was otherwise lawful, but does not conform to the provisions of this Section, shall be deemed non-conforming. Such sign may continue only in the manner and to the extent that it existed at the time of such adoption, amendment or extension.

2. Any sign that becomes non-conforming subsequent to the effective date of this Section shall be subject to the provisions of this Section.

3. Legal non-conforming signs that are located on a parcel of property which is severed from a larger parcel of property and acquired by a public entity for public use by condemnation, purchase or dedication may be relocated on the remaining parcel without extinguishing the legal non-conforming status of that sign provided that the non-conforming sign:

a. Is not increased in area or height;

b. Remains structurally unchanged except for reasonable repairs or alterations;

c. Is placed in the same relative position on the remaining property that it occupied prior to the relocation;

d. Is relocated in a manner so as to comply with all applicable safety requirements; and

e. After relocation pursuant to this Subsection, the legal non-conforming sign shall be subject to all provisions of this Section in its new location.

4. *Alteration or removal of non-conforming signs.*

a. A non-conforming sign structure shall not be re-erected, relocated or replaced unless it is brought into compliance with the requirements of this Section, except as provided in Subsection (K)(3) of this Section.

b. Any building permit that invokes Certificate of Occupancy requirements shall specify and require that any non-conforming sign located within the boundaries of the development site authorized by said permit shall be brought into conformance with the provisions of this Section.

c. Any non-conforming sign shall be removed or rebuilt in full conformity to the terms of this Section if it is damaged or allowed to deteriorate to such an extent that the cost of repair or restoration is fifty percent (50%) or more of the cost of reconstruction of such sign.

K. *Removal Of Signs.*

1. The Code Enforcement Officer may remove or cause to be removed any discontinued, dangerous, defective, illegal or prohibited sign subject to removal under the provisions of this Section or any other sign maintained in violation of the provisions of this Section. The Code Enforcement Officer, prior to any removal of the sign, will issue the owner of the sign a thirty (30) day written notice.

2. In a case where the health, safety or welfare of the general public is at risk, the Code Enforcement Officer may institute the immediate removal of a dangerous or defective sign without notice.

3. The Code Enforcement Officer may cause the removal of unauthorized signs from the public right-of way. Such signs may be impounded as evidence or disposed of as abandoned property unless claimed by the owner within thirty (30) days. Such signs shall be deemed a nuisance and subject to removal without notice.

4. Any sign removed by the Code Enforcement Officer pursuant to the provisions of this Section shall become the property of the City and may be disposed of in any manner deemed appropriate by the City. Cost of removal of the sign by the City shall be considered a debt owed to the City by the owner of the sign and the owner of the property and may be recovered in an appropriate court action by the City or by assessment against the property. The cost of abatement or removal shall include any and all incidental expenses incurred by the City in connection with the sign abatement or removal.

5. The use of any sign that is located on property that becomes vacant and unoccupied for a period exceeding ninety (90) days shall be deemed to have been discontinued. Any sign whose use has been discontinued is prohibited and shall be removed by the owner of the sign or owner of the premises.

6. Sign structures which remain vacant, unoccupied and devoid of any message, display a "space for rent" sign or display a message pertaining to a time, event or purpose that no longer applies will be considered a discontinued sign after three hundred sixty-five (365) days. Upon written notice by the Code Enforcement Officer, the property owner must remove this sign within thirty (30) days.

7. Off-site sign structures for businesses that have closed shall be deemed discontinued if left vacant and unoccupied for a period exceeding ninety (90) days.

L. *Variances.* The Board of Adjustments may grant variances to the sign code to ensure conformity to the intent of this Section. A variance may only be granted upon a finding by the Board of Adjustments that:

1. There are special circumstances or conditions applying to the land, building or use referred to in the application;

2. That such special circumstances or conditions are pre-existing and not created by the property owner or appellant;

3. The authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights;

4. The authorizing of the variance will not be materially detrimental to persons residing or working in the vicinity of the property, to the neighborhood or the public welfare in general; and

5. The variance will not give the sign owner an unfair advantage in the marketplace when comparing the business's competition.

Section 405.170. Accessory Buildings.

A. If not otherwise regulated by the City zoning ordinance, accessory buildings shall be subject to the following requirements:

1. Shall not be located nearer the front lot line than the main building.

2. Minimum distance from any property line shall be five (5) feet except within utility easements.

Section 405.180. Public Buildings and Utilities.

Public building and utility uses may be permitted in any district subject to such protective restrictions deemed necessary by the Board of Adjustment.

Section 405.190. Height.

The following structures will be permitted above height limits specified in other parts of this Chapter: tanks, church spires, skylights, steeples, flagpoles, chimneys, ventilating fans and other appurtenances not used for human use or habitation.

Section 405.200. Area.

Unless otherwise regulated in the zoning ordinance, on corner lots, no fence, wall, hedge or other structure or planting more than three (3) feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are sufficiently distant from the point of intersection to provide adequate sight distance for vehicles traveling at the design approach speed of street.

Section 405.210. Annexed Territory.

A. All territory which may hereafter be annexed to the City shall be classified under the zoning districts of the City pursuant to the following procedure:

1. In the event that the annexation is initiated by the property owners of the territory to be annexed by voluntary petition as provided in Section 71.012, RSMo., the petitioning property owners shall be required to make simultaneous application for zoning classification of the subject territory pursuant to Section 405.430 of the Carterville Code.

2. In the event that the annexation is initiated by any other process or in the event written objection is filed with the City as provided in Section 71.012.2(3), RSMo., requiring the City to

follow the procedure set forth in Section 71.015, RSMo., the Zoning and Planning Committee shall, on its own motion, pursuant to Section 405.430 of the Carterville Code, initiate zoning classification of the subject territory.

3. Unless it is impractical in the sole judgment of the City, the public hearing regarding the zoning classification of the subject territory shall be held by the Zoning and Planning Committee prior to the public hearing before the City Council on the issue of annexation such that the ordinance establishing the zoning classification shall be on the Council's agenda at the same time as the annexation ordinance.

4. A fee of three hundred sixty dollars ($360.00) shall be paid with each application for annexation in addition to the payment of the estimated cost of publication of notice.

Section 405.220. Vacation of Public Easements.

Whenever any street, alley or other public easement is vacated, the district classifications or property to which the vacated portions of land accrue shall become the classification of the vacated land. A fee of one hundred dollars ($100.00) shall be paid with each application for vacation in addition to the payment of the estimated cost of publication of notice.

Section 405.230. Child Care Facility.

Child care facilities authorized under the zoning ordinance or upon review by the Zoning and Planning Committee shall meet the licensing requirements imposed by Section 210.201 et seq., RSMo., and as therefore amended; the rules and regulations propounded by the Department Of Health And Senior Services under Section 210.221, RSMo.; and the other requirements of the zoning ordinance.

Section 405.240. Off-Street Automobile and Vehicle Parking and Loading.

A. *Intent.* It is the intent of these requirements that adequate parking and loading facilities be provided off the street for each use of land within the City. Requirements are intended to be based on the demand created by each use. These requirements shall apply to all uses in all districts.

B. In all districts, in connection with every use, sufficient off-street parking spaces shall be provided to accomplish the principles set forth in this Article and to meet the parking demands generated by residents, employees, company officials, company vehicles and customers. Required parking spaces shall be located on the lot on which the principal use is located except as provided in this Section.

C. Each application for a building permit or variance shall include plans for at least the minimum number of parking spaces herein required. Plans shall include information as to location and dimensions of off-street parking spaces and the means of access to the spaces. The Building Inspector shall not approve any application until he/she determines that the requirements of this Section are met in the plans.

D. Each parking space shall contain not less than two hundred (200) square feet in area exclusive of access and circulation aisles. Areas normally used for drive-in customer service such as drive-in windows and gas pump service areas shall not be counted as required parking spaces.

E. If the off-street parking space required by this Section cannot reasonably be provided on the lot on which the principal use is located, such space may be provided on any land within two hundred (200) feet exclusive of street and alley widths of the principal building or use. The principal use shall be permitted to continue only as long as its parking requirements are met.

F. *Minimum Spaces.* The minimum number of required spaces shall be determined by the following criteria:

1. These criteria are to be used in determining the minimum number of required spaces, a developer shall evaluate his/her own needs to determine if they are greater than the minimum specified in this Section.

2. Uses permitted in an "R-1" and "R-2"

   a. *Single-family, two-family and multi-family dwellings.* Two (2) parking spaces per dwelling unit.

   b. *Churches.* One (1) parking space for each four (4) seats in the principal place of assembly.

   c. *Home occupation.* Three (3) parking spaces which may include residential spaces.

   d. *Public buildings.*

      (1) *Schools.* One (1) space for each staff member and employee; in the case of secondary schools, one (1) additional parking space for each eight (8) students in grades nine (9) through twelve (12) shall be provided.

      (2) *Community centers, libraries, galleries and museums.* Ten (10) parking spaces plus one (1) additional parking space for each three hundred (300) square feet of floor area. (3) *Stadiums.* One (1) parking space for each three (3) spectator seats.

   e. *Hospitals.* One (1) parking space for each employee and one (1) additional space for each four (4) patient beds.

   f. *Golf course.* Forty (40) parking spaces.

3. *Uses permitted in a "C-1", "C-2" or "C-3" Zoning District.*

   a. *Single-family, two-family and multi-family dwellings.* Two (2) parking spaces per dwelling unit.

   b. *Public buildings.*

      (1) *Schools.* One (1) space for each staff member and employee; in the case of secondary schools, one (1) additional parking space for each eight (8) students in grades nine (9) through twelve (12) shall be provided.

      (2) *Community centers, libraries, galleries and museums.* Ten (10) parking spaces plus one (1) additional parking space for each three hundred (300) square feet of floor area.

      (3) *Stadiums.* One (1) parking space for each three (3) spectator seats.

   c. *Rooming and board houses.* Two (2) parking spaces and one (1) additional space for each roomer or boarder.

   d. *Retail business and service establishments.* One (1) space for each company vehicle and one (1) space for each two hundred (200) square feet of gross floor area.

   e. *Service stations.* Two (2) parking spaces for each gas pump and three (3) spaces for each grease rack.

f. *Restaurant, cafe, nightclub or similar establishment.* One (1) parking space for every two (2) employees and one (1) additional space for each one hundred (100) square feet of gross floor area.

g. *Office building, banks and similar institutions.* One (1) parking space for each two hundred (200) square feet of gross floor area.

h. *Auto sales and garages.* One (1) parking space for each employee and four (4) spaces for each maintenance stall.

i. *Pool halls, bowling alleys and similar recreational facilities.* One (1) parking space for each two hundred (200) square feet of gross floor area.

j. *Funeral homes.* One (1) parking space for every four (4) seats in the principal place of assembly.

k. *Motels and hotels.* One (1) space for each employee and one (1) parking space for each rental unit.

l. *Theaters.* One (1) space for every two (2) seats.

4. *Uses permitted in an "I-1" or "I-2" Zoning District.*

a. *Manufacturing industries.* One (1) parking space for each employee on the largest shift and one (1) space for each company vehicle.

b. *Wholesale, retail and commercial storage.* One (1) parking space for each employee and one (1) space for each company vehicle stored at the site.

G. *Additional Requirements.*

1. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

2. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Board of Adjustment.

3. Whenever a building or use constructed or established after the effective date of this Section is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Section is enlarged to the extent of fifty percent (50%) or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.

4. In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

H. *Parking Not Located On The Same Lot.* All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located and maintained not to exceed two hundred (200) feet from the building served.

1. Up to fifty percent (50%) of the parking spaces required for (a) theaters, public buildings, bowling alleys, dance halls, nightclubs or cafes and up to one hundred percent (100%) of the parking spaces required for a church or school auditorium may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in (a), provided however, that written agreement thereto is properly executed and filed as specified below.

2. In any case where the required parking spaces are not located on the same lot with the building or use served or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the attorney for the City and shall be filed with the application for a building permit.

3. Off-street parking space may be located within the required front yard of any "C" or "I" zoning district, but no off-street parking shall be permitted in the required front yard of any "R" zoning district, except upon a driveway providing access to a garage, carport or parking area for a dwelling.

I. *Size Of Off-Street Parking Space.* The size of a parking space for one (1) vehicle shall consist of a rectangular area having dimensions of not less than ten (10) feet by twenty (20) feet plus adequate area for ingress and egress.

J. *Off-Street Loading Requirements.* Every building or part thereof erected or occupied for retail business, service, manufacturing, storage, warehousing, hotel, mortuary or any other use similarly involving the receipt or distribution by vehicles of materials or merchandise shall provide and maintain on the site premises off-street loading space in accordance with the following requirements:

1. Within any "C-2" and "C-3" Zoning District, one (1) loading space for each fifteen thousand (15,000) square feet of gross floor area.

2. Within any "I-1" or "I-2" Zoning District, one (1) loading space for each fifteen thousand (15,000) square feet of gross floor area.

3. For the purpose of this Section, an off-street loading space (exclusive of adequate access drives and maneuvering space) shall have minimum dimensions of twelve (12) feet by forty (40) feet and an overhead clearance of fourteen (14) feet in height above the alley or street grade.

K. *Off-Street Parking Lot Construction And Maintenance.*

1. *Lots in residential districts.* Whenever off-street parking lots for more than six (6) vehicles are to be located within or adjacent to a residential district, the following provisions shall apply.

a. All sides of the lot abutting the residential district shall be enclosed with an opaque, ornamental fence, wall or dense evergreen hedge having a height of not less than five (5) nor more than six (6) feet.

Such fence, wall or hedge shall be maintained in good condition.

b. No parking shall be permitted within a front yard setback line established ten (10) feet back of the property line of interior and corner lots wherever the parking lot is located in a residential district or immediately abuts the front yard of a residential unit. In all other cases no setback shall be required, provided however, that on any corner lot formed by two (2) intersecting streets no parking shall be permitted.

c. All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use.

2. *Lots in commercial districts.* Whenever off-street parking lots are located adjacent to other commercial properties, a driving way for ingress and egress shall be constructed to adjoining property lines to facilitate the movement of traffic from one lot to another without the need to access a public street or highway.

Section 405.250. Court Requirements For Multiple-Family Dwellings.

A. Whenever a multiple-family dwelling or group of multiple dwellings is designed with an inner or outer court, such court must meet the following requirements:

1. *Outer court width.* The width of an outer court upon which windows open shall be not less than fifteen (15) feet or equal to the height of the opposing wall, whichever is greater; and in no case shall an outer court be less than ten (10) feet in width or equal to seventy percent (70%) of the height of the opposing wall, whichever is greater.

2. *Inner court width.* The width of an inner court of a multiple-family dwelling shall not be less than two (2) times the height of the lowest wall forming the court, but in no case shall it be less than twenty (20) feet.

3. *Passageway for inner court.* An open unobstructed passageway shall be provided. Such passageway shall be not less than six (6) feet in width, shall have a clearance of not less than eight (8) feet in height and shall provide a straight and continuous passage from the inner court to a yard or open space having a direct connection with a street.

Section 405.260. Prohibition Against Sale of Motor Vehicles in Residential Districts.

A. It shall be unlawful for any person, persons or entity to sell, display for sale or to advertise for sale any motor vehicle parked in areas zoned residential within the City limits of the City.

B. This prohibition shall not apply to the sale, display for sale or advertisement for sale of motor vehicles parked in areas zoned residential in the event that said motor vehicle is owned and registered in the name of the owner or lessee of the property on which the motor vehicle is parked.

Section 405.270. Occupancy Permit.

A. It shall be unlawful for any person or entity to occupy, use or advertise for sale, rent or lease any building which was not erected or occupied prior to the adoption of this code, or which became unoccupied for a period of ninety (90) days subsequent to the adoption of this code, unless and until the Building Inspector has issued an occupancy permit with regard to such building.

B. The owner of a building may obtain an occupancy permit by first submitting an application for the same to the City Collector, making payment of a fee of twenty-five dollars ($25.00) and providing complete access to the building for inspection by the Building Inspector, Code Enforcement Officer, and/or Fire Chief.

C. Within three (3) business days following inspection, the Building Inspector shall either issue an occupancy permit or file a written report with the City Clerk, said report to include the time of the inspection and specific findings of deficiencies with reference to the City's Building Code or Fire Code. The owner of the building may correct the deficiencies and request another inspection upon payment of an additional inspection fee. Any party aggrieved by a decision of the Building Inspector in issuing

or refusing to issue an occupancy permit may appeal the decision to the Board of Adjustment. Appeals from determination of the Committee must be made directly to the Circuit Court of Jasper County, Missouri.

Section 405.280. Fences.

A. Except as otherwise specifically provided in other Codes and regulations, the following regulations shall apply to the construction of fences:

1. Installation of fencing for safety purposes shall be required wherever industrial or commercial uses are built or installed on lots abutting residential areas by the owner of the industrial or commercial lot and said fencing shall be approved by the Building Inspector.

2. No fence shall be constructed which will constitute a traffic hazard.

3. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.

4. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation or which fence shall adversely affect the public health, safety and welfare.

5. No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than four (4) feet in the front yard or eight (8) feet elsewhere; provided however, that the Board of Adjustment may, as a special use, authorize the construction of a fence higher than eight (8) feet if the Board of Adjustment finds the public welfare is served.

B. It shall be unlawful for any person to erect or maintain any fence or other like structure except as follows:

1. Privacy fences may be erected on any lot but shall be no more than eight (8) feet high. The privacy fence shall not be located any closer to the front property line than halfway between the rear of the structure and the front of the structure.

2. Decorative fences may be erected on any lot but shall be no more than four (4) feet high and be of open construction, unless constructed of rock, brick or decorative block.

3. Security fences may be erected on any business or industrial lot to a height of not more than twelve (12) feet except the top four (4) feet must be of open wire, woven wire or barbed wire construction.

4. Fences for the enclosure of private tennis courts may be constructed to a height of not more than twelve (12) feet but must be set back from all property lines at least six (6) feet and must be of open wire or woven wire construction.

5. Materials allowed for construction of a privacy fence must be wood, except posts may be made of metal. Maximum board width is twelve (12) inches for solid, staggered or "basket weave" fences. Solid panels such as plywood, wafer board, etc., will not be allowed, except around construction sites for public safety, which must be removed upon issuance of a certificate of occupancy.

6. Materials allowed for construction of a decorative fence can be wood, wrought iron, square tubing, metal pipe, rock and brick. A decorative fence must be of open construction, no panels such as plywood, wafer board, etc., will be allowed, unless of rock, brick or decorative block construction.

7. All framework of a wood fence, privacy or decorative, must be on the inside portion of the fence and all posts of a wire fence must be inside of the fabric. All posts (except metal "T" line posts) must be set in concrete to a minimum depth of eighteen (18) inches and a minimum of four (4) inches by four (4) inches (nominal) or three (3) inches in diameter (nominal). Metal "T" posts can be driven.

C. No person shall permit, cause, keep, maintain or allow a fence in a dilapidated or dangerous condition.

D. No person shall place or permit to be placed or remain on or along any building front or any part of a building, fence or premises adjacent or contiguous to any right-of-way, public way or residence any spikes, sharp-pointed cresting, barbed wire, electrified fence or dangerous construction liable to tear, snag, cut or injure anyone coming in contact therewith.

E. *Variances.* Variances to the requirements of this Section may be granted by the Board of Adjustment to insure conformity to the intent of this Section.

F. *Permit Required.*

1. No person shall erect a fence of any kind without a permit issued by the City of Carterville, upon payment of a permit fee of twenty-five dollars ($25.00). Application for a permit shall include the following:

a. Name and address of the property owner.

b. Height and type of fencing.

c. The proposed location of the fence relative to lot lines, building(s), utilities and other features pertinent to fence placement.

Section 405.290. Buffering Between Zoning Districts.

A. When construction occurs on a lot or parcel which is adjacent to a residence or residential district which has a zoning classification of a lesser density, the owner of the lot or parcel with the higher density residential, commercial or industrial use will be required to construct and maintain an opaque buffer between the lots or parcels to screen the new construction from view except for the frontage. The buffer may be:

1. A wood fence of stockade or shadowbox construction, no less than eight (8) feet in height. All posts and supports on a stockade fence must face to the interior of the lot or parcel considered the higher density use.

2. An evergreen vegetative screen, which at the time of planting must provide a six (6) foot screen from the adjacent property.

3. A combination of a six (6) foot wood fence of stockade or shadowbox construction and evergreen vegetative buffer providing the proper screening.

Section 405.300. Telecommunications Tower Ordinance.

A. *Purpose.* The purpose of this Section is to establish appropriate locations, site development standards and permit requirements to allow for wireless communications services to the residents of the City in a manner which will facilitate the location of various types of wireless communication facilities in permitted locations so that they are consistent with the character of the City and consistent with land uses. Minimizing the adverse visual impact of wireless communications facilities within the City is one (1) of the primary objectives of this Section. This Section, together with the provisions of the Building Code, the Electrical Code and Chapter 405, the Zoning Regulations, is also intended to protect the public from excessive invasion and disruption and to permit wireless communications service providers reasonable use for the purpose of providing wireless and wired communications services.

B. *Permit Required.*

1. No person, firm or corporation shall erect a tower or similar structure of any kind without a permit issued by the City of Carterville, upon payment of a permit fee of one hundred dollars ($100.00). Application for a permit shall include the following:

   a. Name and address of the tower owner;

   b. The proposed location of the tower relative to lot lines, building(s) on or adjacent to the lot, utilities and other features pertinent to tower placement;

   c. A plan of the tower, including dimensions and position of the antenna, antenna support structure, equipment enclosure and facilities.

2. Upon application of the permit, staff shall collect fees required for permit upon review as set forth herein and Article V, review the application for completeness and place the request on the next available Board of Adjustment agenda as set forth in Article V of this chapter.

3. Upon approval by the Board of Adjustment, the applicant may then proceed with the normal building permit process. The building permit shall become null and void if the work for which the permit was issued has not been substantially completed within six (6) months from the date of the permit, provided however, that the City may, upon a showing in writing by applicant of extenuating circumstances, issue extensions covering a period not to exceed twelve (12) months from the date of issue of the original permit.

4. All antennas, antenna support structures, equipment enclosures and facilities shall comply with the appropriate detailed provisions of the current Carterville Building Code relating to the design, structural members and connections. All electrical equipment shall also comply with the applicable provisions of the National Electrical Code.

C. *Administration And Enforcement.* This Section shall be administered by City staff under the guidance of the Board of Adjustment and shall be enforced by the Code Enforcement Officer in the following manner.

D. *Exemptions.* The following activities shall be exempt from these regulations:

1. Ham radio operation.

2. Residential signal reception equipment, including large and small satellite dish receivers and typical television and radio antennas.

3. Minor modifications of existing wireless communications facilities and attached wireless communications facilities, whether emergency or routine, provided there is little or no change in the visual appearance. Minor modifications are those modifications, including the addition of antennas, to conforming wireless and attached wireless communications facilities that meet the performance standards set forth in this document.

E. *Permitted Use District Locations For Antenna Support Structures (Towers) Upon Review.*

1. Lattice towers are permitted only in the use districts described in Article II of this Chapter as: "I-2" and "I-3".

2. Monopole towers are permitted only in the use districts described in Article II of this Chapter as: "R3", "C-2", "I-1", "I-2", and "1-3".

3. Lattice and monopole towers may be permitted by special use permit by the Board of Adjustment in the following locations:

a. In any use district on land owned and managed by the City of Carterville, subject to the requirements of this Chapter. In addition, the Board of Adjustment may designate areas owned by the City on which towers may be placed with staff review.

b. In any use district on land that is unplatted, undeveloped and not reasonably suitable for development, subject to the requirements of this Chapter.

c. In any use district on land that is owned and managed by a governmental agency, including special districts, school districts, public utility districts.

F. *On-Site Locations Of Antenna Support Structures (Towers).*

1. Where permitted, guyed lattice towers shall be constructed and installed as far away from existing buildings as is reasonably possible and in no event nearer to any public street, alley, residential structure or accessory building, railroad track or public park than a distance which equals one hundred fifteen percent (115%) or more of the vertical length of the lattice tower that is above the highest guy wire.

2. Where permitted, monopole towers and unguyed lattice towers shall be constructed and installed as far away from existing buildings on adjoining land as is reasonably possible and in no event within any required yard or setback area or nearer to any public street, alley, residential structure or accessory building on adjoining land, railroad track or public park than a distance which equals one hundred fifteen percent (115%) or more of the vertical length of the tower, unless prior approval is granted by the Board of Adjustment.

3. The distances specified in Subsections (F)(1) and (2) of this Subsection shall be subject to modification by the Board of Adjustment in accordance with this code.

G. *Permitted Locations Of Antennas To Be Used For Wireless Communications Service.*

1. Antenna arrays may be mounted on the top of and attached to lattice towers and monopole towers. To accommodate and provide for co-location, antenna arrays may also be mounted midway on lattice towers and monopole towers.

2. In all use districts described in Subsection (E) of this Section, antenna arrays may be mounted on the top of and attached to roofs of existing buildings that are thirty (30) feet or more in height

above the street grade upon which such building fronts; provided however, that such antenna arrays shall not add more than twenty (20) feet to the total height or elevation of such building from the street grade (including the antenna array). Antenna arrays so mounted shall be obscured from view from the street upon which such building fronts by the use of screening materials designed, painted and maintained in a manner that will blend with the appearance of the building.

3. In all use districts described in Subsection (E) of this Section, omni-directional antennas may be included as a part of an antenna array where antenna arrays are permitted. Omni-directional antennas that are not part of an antenna array may be mounted on lattice towers, monopole towers (where such towers are permitted), on roofs of existing buildings and on other alternative antenna support structures. Omni-directional antennas mounted on roofs of existing buildings shall not:

a. Be closer than ten (10) feet from other omni-directional antennas mounted on the same building and shall be set back from all imaginary vertically extended sides of such building a distance that will permit screening to occur.

b. Be situated closer together and nearer the imaginary extended vertical sides of such buildings unless they are obscured from view from the street on which the building fronts.

c. Be greater than four (4) feet in height or length and mounted on alternative antenna support structures other than roofs of buildings unless obscured from view.

4. *Directional (panel) antennas*.

a. In the use districts described in this Code as "I-2", and "I-3", directional (panel) antennas may be included as a part of an antenna array and may be so connected, mounted, attached or located on such antenna array or platform as to achieve a three hundred sixty-degree (360°) transmission/reception pattern.

b. Directional (panel) antennas that are not a part of an antenna array may be mounted or erected and maintained on lattice towers or monopole towers (where permitted), on roofs of existing buildings in the use districts described in this Subsection and on the facades or sides of existing buildings if adequately obscured; provided however, that if mounted or erected and maintained on the roof of an existing building, any such directional (panel) antenna shall be no closer than fifteen (15) feet from the imaginary vertically extended sides of such.

c. Directional (panel) antennas may be mounted on alternative antenna support structures, other than roofs of existing buildings, only as a special use approved by the Board of Adjustment.

5. *Satellite parabolic (dish) antennas.*

a. Satellite parabolic antennas may not be included as a part of an antenna array mounted on an existing building except in the use districts described in this Chapter as "I-2", and "I-3".

b. Satellite parabolic antennas and microwave parabolic antennas of wireless communications service providers may be installed, erected and maintained on the ground or on foundations without an antenna support structure in use districts described in this Chapter as "C-2", "I-1", "I-2", and "I-3". Parabolic antennas that are installed, erected and maintained on the ground shall:

(1) Be set back from all streets, alleys and other public ways a distance of not less than twenty-five (25) feet;

(2) Be set back from any adjoining residential use a distance of not less that forty (40) feet;

(3) Be placed to maintain all minimum setbacks of the district where the antennas are located;

(4) Be surrounded by an opaque fence six (6) feet or more in height.

c. Microwave parabolic antennas may be mounted on lattice towers and monopole towers as a part of an antenna array or midway along such tower and not as a part of an antenna array.

d. Microwave parabolic antennas may be installed, erected or maintained by wireless communications providers on alternative antenna support structures if they are adequately obscured and screened as determined by the Board of Adjustment.

6. In all use districts, ancillary antennas and other devices designed for the reception and/or transmission of radio frequency (RF), microwave or other communications technology which are of a small size and easily obscured from view, may be installed, erected, mounted and maintained on lattice towers, monopole towers (where permitted), antenna arrays (where permitted), existing buildings without reference to the roof configuration and on alternative antenna support structures; provided however, appropriate means shall be employed to obscure such antennas and/or other devices from view by persons passing by or standing below, and the means and methods of creating such obscurity shall be as proposed by the applicant and approved by the City Administrator or his/her designee, subject to appeal to the Board of Adjustment in accordance with Chapter.

Article IV. Flood Plain Management

Section 405.310. Flood Plain Management Ordinances.

This Article is intended to comply with the land management criteria as set forth in part 1910 of the National Flood Insurance Program, to be known as the Flood Plain Management Ordinance, and shall become effective upon the date the City Council adopts the regular Flood Insurance Program.

Section 405.320. Statutory Authority, Findings of Facts and Purposes.

A. *Statutory Authorization.* The Legislature of the State of Missouri has in Section 89.020, RSMo., delegated the responsibility to local governmental units to adopt flood plain management regulations designed to protect the health, safety and general welfare. Therefore, the City of Carterville, Missouri, ordains as follows.

B. *Findings Of Facts.*

1. The special flood hazard areas of Carterville, Missouri are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. These flood losses are caused by:

a. The cumulative effect of development in any delineated flood plain causing increases in flood heights and velocities; and

b. The occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

3. The Flood Insurance Study (FIS) that is the basis of this Article uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps:

a. Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this Article is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this Article. It is in the general order of a flood which could be expected to have a one-percent chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS and illustrative materials for Jasper County dated November 2, 2012, as amended, and any future revisions thereto;

b. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and over-bank areas to convey the regulatory flood;

c. Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point;

d. Delineation of floodway encroachment lines within which no development is permitted which would cause any increase in flood height;

e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

C. *Statement Of Purpose.* It is the purpose of this Article to promote the public health, safety and general welfare, to minimize those losses described in Subsection (B) of this Section, to establish or maintain the community's eligibility for participation in the National Flood Plain Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3), and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this Article to:

1. Restrict or prohibit uses, which are dangerous to health, safety, or property in times of flood or cause undue increases in flood heights or velocities;

2. Require that uses vulnerable to floods, including public facilities, which serve such uses, be provided with flood protection at the time of initial construction;

3. Protect individuals from buying lands that are unsuited for intended development purposes due to the flood hazard.

Section 405.330. General Provisions.

A. *Lands To Which This Zoning Regulation Applies.* This Article shall apply to all lands within the jurisdiction of the City of Carterville identified as numbered and unnumbered A zones and AE zones, on the Flood Insurance Rate Map (FIRM) for Jasper County, Missouri on map panels 29097C0162E, 29097C0164E, and 29097C0170E dated November 2, 2012, as amended, and any future revisions thereto. In all areas covered by this Article, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare and health of the inhabitants of the community.

B. *Flood Plain Administrator.* The City Administrator is hereby designated as the Flood Plain Administrator under this Article.

C. *Compliance.* No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this Article and other applicable regulations.

D. *Abrogation And Greater Restrictions.* It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail.

E. *Interpretation.* In their interpretations and application, the provisions of this Article shall be held to be minimum requirements and shall be liberally construed in favor of the City Council and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

F. *Warning And Disclaimer Of Liability.* The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific means of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damages. This Article shall not create a liability on the part of Carterville Missouri, any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision made lawfully thereunder.

G. *Severability.* If a court of appropriate jurisdiction adjudges any section, clause, provision, or portion of this Article unconstitutional or invalid, the remainder of this Article shall not be affected thereby.

Section 405.340. Special Provisions Applying To The Zoning Districts.

A. *Permit Required.* No person, firm or corporation shall initiate any development or substantial improvement without first obtaining a separate permit for development as defined in Section 405.330.

B. *Administration.* Duties of the Building Inspector shall include, but not be limited to:

1. Review all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this Section have been satisfied.

2. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

3. Notify adjacent communities and the Department of Natural Resources prior to any alteration or relocation of a watercourse and shall submit evidence of such notification to the Federal Emergency Management Agency.

4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

5. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.

6. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.

7. When floodproofing is utilized for a particular structure, the Building Inspector shall be presented certification from a registered professional engineer or architect.

C. *Application For Permit.* To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

1. Identify and describe the work to be covered by the permit.

2. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use or occupancy for which the proposed work is intended.

4. Be accompanied by plans and specifications for proposed construction.

5. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority.

6. Give such other information as reasonably may be required by the Building Inspector.

Section 405.350. Zoning Districts.

The mapped flood plain areas within the jurisdiction of this zoning regulation are hereby divided into the two (2) following districts: a Floodway Overlay District (FW) and Floodway Fringe Overlay District (FF). The boundaries of these districts shall be shown on the Official Zoning Map. Within these districts all uses not meeting the standards of this zoning regulation and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones (including AE, AO and AH Zones) as identified in the official FIRM and identified in the Flood Insurance Study provided by the Federal Emergency Management Agency.

Section 405.360. Standards For The Floodway Overlay District and The Floodway Fringe Overlay District.

A. No permit for development shall be granted for new construction, substantial improvements and other improvements including the placement of manufactured homes within all numbered and unnumbered A Zones (including AE, AO and AH Zones) unless the conditions of this zoning regulation are satisfied.

B. All areas identified as unnumbered A Zones on the FIRM are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject

to all development provisions of this Article. If Flood Insurance Study data is not available the community shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.

C. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:

1. Design or anchorage to prevent floatation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and on-site waste disposal systems be located so as to avoid impairment or contamination.

3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages and with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.

5. That until a floodway has been designated, no development, including landfill, may be permitted within A Zones A1-30 and AE on the City's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one (1) foot on the average cross section of the reach in which the development or landfill is located as shown on the Flood Insurance Rate Study incorporated by reference.

6. *Storage and material and equipment.*

a. The storage or processing of materials that are, in times of flooding, buoyant, flammable, explosive or possibly injurious to human, animal or plant life is prohibited.

b. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent floatation or if readily removable from the area within the time available after flood warning.

7. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:

a. All such proposals are consistent with the need to minimize flood damage;

b. All public utilities and facilities, such as sewer, gas, electrical and water systems, are located, elevated and constructed to minimize or eliminate flood damage;

c. Adequate drainage is provided so as to reduce exposure to flood hazards; and

d. Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the regulatory flood elevation.

Section 405.370. Floodway Fringe Overlay District.

A. *Permitted Uses.* Any use permitted in Section 405.380 shall be permitted in the Floodway Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 405.360 are met.

B. *Standards For The Floodway Fringe Overlay District.*

1. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above the level of the 100-year flood.

2. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above the level of the 100-year flood, utility and sanitary facilities to be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this Subsection are satisfied. Such certification shall be provided to the Building Inspector as set forth in this article.

3. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than abasement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

C. Within AH Zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

D. Manufactured homes shall be anchored to resist floatation, collapse or lateral movement.

Manufactured homes must be anchored in accordance with local Building Codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

1. Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side;

2. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;

3. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and

4. Any additions to the manufactured home be similarly anchored.

E. Require that all manufactured homes to be placed within Zones A1-30, AH and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this section.

F. Located within the areas of special flood hazard, established in this article, are areas designed as AO Zones. These areas have special flood hazards associated with base flood depths of one (1) to

three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the level of the 100-year flood.

2. All new construction and substantial improvements of non-residential structures shall:

   a. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the level of the 100-year flood.

   b. Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the Building Inspector as set forth in this article.

3. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

Section 405.380. Floodway Overlay District.

A. Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance. All encroachments, including fill, new construction, substantial improvements and other developments, must be prohibited unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge. No uses shall increase the flood levels of the regulatory flood elevation. These uses are subject to the standards of Sections 405.410 and 405.420. The following are recommended uses for the Floodway District.

1. Agricultural uses such as general farming, pasture, nurseries and forestry.

2. Residential uses such as lawns, gardens, parking and play areas.

3. Non-residential areas such as loading areas, parking and airport landing strips.

4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserve.

5. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or other sources or Section 405.410 in meeting the standards of this Section.

Section 405.390. Variance Procedures Applicable To This Article.

A. The Board of Adjustment shall hear and decide appeals and requests for variances.

B. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the Building Inspector in the enforcement or administration of this flood plain management zoning regulation.

C. Any person, or any neighborhood organization defined by Section 32.105, RSMo., aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the Circuit Court of Jasper County as provided in Section 89.110, RSMo., as amended.

D. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other Sections of this zoning regulation and the following:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area;
9. The safety of access to the property in times of flood for emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

E. Variances may be granted under the following conditions:

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (E)(2)—(E)(6) below have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical jurisdiction required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that proposed repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Section 405.400. Non-Conforming Use.

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance but which is not in conformity with the provisions of this Article may be continued subject to the following conditions:

1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this zoning regulation. The City Water Department shall notify the Building Inspector in writing of instances of non-conforming uses where City services have been discontinued for a period of six (6) months.

2. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

B. If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Article. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State inventory of historic places.

Section 405.410. Amendments To The Flood Plain Management Ordinance.

The regulations, restrictions and boundaries set forth in this Article may from time to time be amended, supplemented, changed or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Carterville at least fifteen (15) days before the date of the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this Article of the City's zoning ordinance are intended to comply with the National Flood Insurance Program regulations.

Article V. Administration and Enforcement

Section 405.420. Special Uses and Uses Upon Review.

A. Any of the following uses may be located in any district by special use permit of the City Council, after public hearing and after recommendation of the Board of Adjustment, under such conditions as to operation, site development, signs and time limit as may be deemed necessary in order that such

use will not seriously injure the appropriate use of the neighboring property and will conform to the general intent and purpose of this Chapter and shall comply with the height and area regulations of the district in which they may be located, unless otherwise granted:

1. Privately owned amusement parks, baseball or athletic fields, racetracks and carnivals.
2. Clubs, private, including fraternal orders.
3. Drive-in theaters.
4. Golf driving ranges, commercial or illuminated.
5. Camping areas, picnic groves and fishing lakes, including minor and incidental concession facilities for patrons only.
6. Kennels.
7. Nursery sales office, building, greenhouse or area (wholesale or retail).
8. Nursing and convalescent homes except in District I.
9. Radio, television and microwave towers.
10. Reservoirs, towers, filter beds or water treatment plants or wells.
11. Riding stables and tracks.
12. Philanthropic or eleemosynary institutions.
13. Motor hotels, motels or inns.
14. Buildings, structures and premises for public utility services or public service corporations.
15. Temporary use of land for commercial or industrial purposes, provided that any building or structure constructed thereon must be otherwise permitted in the district in which such land is situated and any stored equipment or material shall be removed upon the date of expiration of the special use permit. Any such permit shall be valid for not more than two (2) years but may be renewable after public hearing.
16. Assembly halls.
17. Day nursery or preschool.
18. Mortuaries.

B. *Uses Upon Review.* In zoning districts where specifically listed uses are permitted upon review, requests for such shall be made to the Zoning and Planning Committee by written application filed with the City Clerk. Such request shall be forwarded by the Clerk to the Committee and shall be heard by the Committee at the next practicable regularly scheduled meeting. In determining whether to permit such use, the Committee shall be governed by the following:

1. No public hearing is necessary but one may be granted upon request by the applicant, in which case the request shall be treated as an application for an amendment of the zoning ordinance and governed by the applicable procedures thereof.

2. Upon motion by the Committee or upon request by the applicant, the request for a use permitted upon review may be redesignated as an application for an amendment; and in any event, any request denied under this procedure may reapply under the procedures governing amendments.

3. The request shall be accompanied by a fee in the amount of eighty-nine dollars ($89.00) and the payment of the estimated cost of publication in the event a public hearing is to be held.

4. Approval by the Committee shall be given where it is evident that the requested use upon review will conform in all respects to the requirements and governing intent of the zoning district in which such land is situated.

Section 405.430. Procedure For Special Use Permits or Amendments To The Zoning District Map.

A. Application for amendment, revision or change of the Zoning District Map of the City may be made by any person, or his/her agent, who owns the land sought to be rezoned or who is purchasing said land under written contract with the owner. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner. Such application shall be made upon forms prescribed and duly filed with the City Clerk.

B. Applications for amendment, revision or change of any of the rules, regulations or provisions of the text of the zoning ordinance of the City, other than the Zoning District Map or application for a special use permit, may be made by any interested person on forms prescribed and duly filed with the City Clerk.

C. A fee shall accompany each application for a special use permit in the amount of sixty-six dollars ($66.00). A fee shall accompany each application for renewal of a special use permit in the amount of thirty-three dollars ($33.00). A fee shall accompany each application for amendment to the residential zoning district map in the amount of ninety-nine dollars ($99.00). A fee shall accompany each application for amendment to the commercial or industrial Zoning District Map in the amount of one hundred thirty-two dollars ($132.00). In addition to the filing fee, the applicant shall pay the estimated cost of publication and certified mail, if any.

D. *Public Hearing Requirements.*

1. All such applications shall be set down for public hearing before the Board of Adjustment not later than the second (2nd) regular monthly meeting of the Committee from the date of filing the same. Any such hearing, for good cause, at the request of the applicant or in the discretion of the Committee, may be continued. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation within the City.

2. In the case of application for amendment, revision or change of the Zoning District Map of the City, the Building Inspector shall determine the names and addresses of all owners within one hundred eighty-five (185) feet of the land subject to such amendment, revision or change as they appear on the real estate property tax records kept in the office of the City Clerk and shall send notice by regular mail, postage prepaid, to all such owners and shall certify in writing that he/she has done so. The notice shall state the purpose, date, time and place of the public hearing. Error in the mailing of notice to surrounding landowners shall not invalidate any action of the Board of Adjustment or of the City Council. In addition, the Building Official shall post notice of said hearing and the reasons therefor by placing a sign on the subject premises.

E. Upon the final hearing of such application, the Committee shall approve or deny the same and a report of such action, together with its commendation for final approval or denial, shall be made by the Chairman of the Committee to the Council.

F. The Zoning and Planning Committee shall not recommend approval of any request unless it shall in each case make specific written findings of fact based directly upon the particular evidence presented to it supporting the conclusion that the amendment or special use:

1. Complies with all applicable provisions of this Chapter;
2. At the specific location will contribute to and promote the community welfare or convenience;
3. Will not cause substantial injury to the value of neighboring property;
4. Complies with the overall neighborhood development plan and the intent of the existing zoning district provisions;
5. Will amend zoning classification only if there is property contiguous to the applicant property with the same zoning classification as the proposed zoning of the applicant property, such that the proposed amendment to the Zoning District Map does not create "spot" zoning;
6. Will not substantially increase traffic hazards;
7. Will not substantially increase fire hazards; and
8. Will not overtax public utilities.

G. In determining whether the evidence presented supports the conclusions, the Zoning and Planning Committee shall consider the extent to which the evidence demonstrates that:

1. The proposed use or amendment complies with the standards of this Chapter in regard to:
    a. Yard and setback;
    b. Parking and loading areas;
    c. Screening and buffering;
    d. Refuse, storage and service areas; and
    e. Signs.
2. The impact of projected vehicular ingress and egress of the use determined with regard to the surrounding traffic flow, pedestrian safety and access accessibility of fire-fighting equipment;
3. The proposed use complies with the performance standards of this Chapter; and
4. The proposed use is compatible with the surrounding area and its impact upon community facilities and services.

H. The Zoning and Planning Committee shall render a written decision containing specific findings of fact without unreasonable delay and in all cases within forty (40) days after the close of the public hearing.

I. In approving such application, the Committee may recommend such conditions and restrictions which are in conformity with this Chapter and as may be necessary to assure that the general intent of this Chapter is carried out.

J. The Council, in approving an application for amendment or special use permit:

1. Shall impose such conditions and restrictions as were recommended by the Committee;

2. Shall impose amendments or deletions to the conditions and restrictions as were recommended by the Committee, only upon another public hearing conducted either by the Council itself or, upon direction of the Council, by the Committee and any such public hearing shall be conducted according to the same procedure and with the same notice as public hearings originally before the Committee.

3. May specify that any use other than as specifically granted by the Council shall null and void the grant, and the property in question shall revert to its designation before such grant;

4. Shall specify that any enlargement or alteration in the use of the structure or site must be approved by the Zoning and Planning Committee before a building permit may be issued;

5. Shall specify that failure to comply with any of these conditions or restrictions constitutes a violation of this Chapter punishable as provided in Section 405.450.

K. No amendment or use permit granted by the Council shall be valid for more than one hundred eighty (180) days, unless within such period a building permit is obtained and the erection or alteration of the structure is commenced, or where no building permit is necessary, the amendment or use is otherwise utilized by the entity originally requesting it.

L. Recommendations for revision or amendment of the zoning ordinance, including addition to or change in classification of uses and including the Zoning District Map, may also be made by the Committee upon its own motion for final determination by the Council; likewise, the Council may revise, modify or amend the zoning ordinance, including the Zoning District Map, upon its own motion, provided however, that such proposed changes shall first be submitted to the Committee for recommendations and report. In that case, final action thereon shall be taken only upon notice and hearing, as provided herein.

M. In case a protest against such amendment or special use is presented, duly signed and acknowledged by the owners of thirty percent (30%) or more either of the areas of land (exclusive of streets and alleys) included in such proposed change or within an area determined by lines drawn parallel to and one hundred eighty-five (185) feet distant from the boundaries of the district proposed to be changed, such revision or amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all of the members of the Council.

N. In the event an applicant and/or applicant's representative fails to appear before the Zoning and Planning Committee or the Council for hearings as provided in this Section at the time advertised for said hearing, said request will be stricken from the agenda. Before the Council or the Committee shall further hear the application, the applicant shall be required to pay an additional fee to the City in the amount of fifty dollars ($50.00), and upon the payment of said additional fee, the request shall be republished as prescribed in this Section for a new public hearing time and place. In the event that the applicant does not pay the additional fee within sixty (60) days from the date of the previous scheduled hearing, such request shall be considered as rejected and no further hearings may be had thereon without reapplication as a new request.

O. Denials by the Zoning and Planning Committee under this Section may be appealed only to the City Council by written request filed with the City Clerk within thirty (30) days of the Committee's decision. The City Council shall hear such appeal at the next practicable regularly scheduled Council meeting or in any case no later than thirty (30) days after such request. The City Council, by vote of not less than two thirds (2/3) of its entire membership, may overrule the denial by the Zoning and Planning Committee.

Section 405.440. Jurisdiction Over Requests Involving Land Use Regulations.

A. *Variances.* In the event that a request for a building permit has been denied by the City, appeal of such denial may be made by application for a variance to the Board of Adjustment under the procedures set forth in Sections 405.390 through 405.410. Variances are permitted only as to certain site requirements in areas zoned residential and commercial.

B. *Special Use Permit.* Applications for special use permits shall be made to the Zoning and Planning Committee under the procedures set forth in Section 405.430. Only those uses listed in Section 405.420 may be the subject of an application for special use permit.

C. *Amendments To Zoning District Map.* Application for amendments to the Zoning District Map or so called "rezoning" requests shall be made to the Zoning and Planning Committee under the procedures set forth in Section 405.430.

D. *Amendments To Zoning Ordinance.* The application for amendments to rules, regulations and requirements contained in the text of the zoning ordinance, other than requests for specific site variance, shall be made to the Zoning and Planning Committee under the procedures set forth in Section 405.430.

E. *Use Upon Review.* In certain zoning districts, specifically listed uses are permitted upon review. Requests for review shall be made to the Zoning and Planning Committee under the procedures set forth in Section 405.420(B).

F. *Subdivision Development And Amendments To City Plan, Street Plan Or Subdivision Regulations.* Subdivision development and requests for amendments to the City plan, street plan or subdivision regulations shall be made to the Zoning and Planning Committee under the procedures set forth in this Chapter.

G. Permits for development or improvements in zoning districts "C-3" shall be made to the Board of Adjustment under the procedures set forth in the zoning ordinance Section pertaining to each respective zone "C-3".

H. *Appeals Of Building Official Actions.* Application for appeal of Building Official actions shall be made to the Board of Adjustment under the procedures set forth in Sections 405.390 through 405.410.

Section 405.450. Violations and Penalties.

A. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure or land is used in violation of the zoning ordinance or other regulation made under authority conferred thereby, the Building Official, which shall include the City Building Inspector, Plumbing and Electrical Inspectors, Code Enforcement Officer and City Engineer, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use to restrain,

correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. Such regulations shall be enforced by the Building Official who is empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of the zoning ordinance.

B. The owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars ($10.00) and not more than one hundred dollars ($100.00) for each and every day that such violation shall continue, but if the offense be willful on conviction thereof, the punishment shall be a fine of not less than one hundred dollars ($100.00) and not more than two hundred fifty dollars ($250.00) for each and every day that such violation shall continue.

C. Any such person who, having been served with an order to remove or to cease any such violation, shall fail to comply with said order within ten (10) days after such service or shall continue to violate any provision of the zoning ordinance in the respect named in such order shall also be subject to a civil penalty of two hundred fifty dollars ($250.00); and each day that such failure to obey said order continues shall be a separate offense.

Chapter 410. Subdivision Regulations

Article I. In General

Section 410.010. Purpose.

A. The rules and regulations set out in this Chapter are intended to serve the following purposes:

1. To assist orderly, efficient and integrated development within the territorial jurisdiction of the City.
2. To promote the health, safety, morals and general welfare of the residents of the City and its environs.
3. To ensure conformance of subdivision plans with the public improvement plans of the City and its environs.
4. To assure equitable handling of all subdivision plans by providing uniform procedures and standards for observance both by subdivider and the Planning and Zoning Committee.

Section 410.020. Conformity With Zoning Ordinance.

The rules and regulations set out in this Chapter pertain to development of subdivisions within the City and may impose greater or different restrictions than are currently imposed in the corresponding zoning regulations.

Section 410.030. Duty of Subdivider and Planning and Zoning Committee Generally.

Any subdivider of land within the territorial jurisdiction shall submit to the Planning and Zoning Committee plats of the subdivision and plans for indicated improvements according to the regulations of this Title. In considering the approval of a plat, the Planning and Zoning Committee shall observe the requirements and procedures set forth herein. In the case of a plat constituting a replat of land into two (2) or more lots, all of which will be served by an existing street or streets, the Planning and Zoning Committee shall have the power to vary the requirements so that substantial justice maybe done and the public interest served.

Section 410.040. Administration.

The provisions of this Chapter shall be administered by the Planning and Zoning Committee. The Committee may from time to time suggest instructions and operating procedures to be followed in the administration of these regulations to the end that the public may be informed and that approval of plats be expedited.

Section 410.050. Fees Payable By Subdivider.

A. Each subdivider shall pay fees to the City Clerk in accord with the following schedule:

1. The fee for each application for approval of a preliminary plat is two hundred dollars ($200.00).
2. The fee for each additional review of a preliminary plat is fifty dollars ($50.00).
3. The fee for each review of the infrastructure of each plat is one hundred fifty dollars ($150.00).
4. The fee for each application for approval of a final plat is fifty dollars ($50.00).

B. No fee shall be charged for land to be dedicated to the public.

C. The Planning and Zoning Committee shall calculate the fee for each application.

D. Fees shall be payable in advance of processing the plat.

Section 410.060. Building Prior To Issuance of Certificate Prohibited.

No subdivider proposing to make or having made a subdivision within the territorial jurisdiction shall proceed with any construction work on the proposed subdivision, including grading, before obtaining from the Planning and Zoning Committee a certificate of final preliminary approval.

Section 410.070. Fraudulent Sales, Etc., Based On Unapproved and Unrecorded Plats — Recourse of City.

No owner or agent of the owner of any land located within the planning jurisdiction of the City, knowingly or with intent to defraud, may transfer, sell, agree to sell or negotiate to sell that land by reference to or by other use of a plat of any purported subdivision of the land before the plat has been approved by the Planning and Zoning Committee and/or City Council and recorded in the office of the Jasper County Recorder. Any person violating the provisions of this Section shall forfeit and pay to the municipality a penalty not to exceed three hundred dollars ($300.00) for each lot transferred or sold or agreed to be or negotiated to be sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from this penalty. The City may enjoin or vacate the transfer or sale or agreement by legal action and may recover the penalty in such action.

Article II. Procedural Requirements

Section 410.080. Submittal of Sketch Plans Prior To Application For Certificate.

A. Whenever any subdivision of a tract of land is proposed to be made, the owner or his/her agent may submit to the Planning and Zoning Committee sketch plans and data concerning existing conditions within the site and in its vicinity and which shall convey the intention of the subdivider as to the proposed layout and type of development.

B. No fees shall be collected for such pre-application consideration, the purpose being to acquaint the subdivider with plans and policies in effect that would be significant to the proposed subdivision.

Section 410.090. Preliminary Plats — Required — Contents — Filing Fee To Accompany.

A. Whenever any subdivision of a tract of land is proposed to be made, the subdivider shall first submit to the Planning and Zoning Committee an application for a certificate of preliminary plat approval, which shall consist of:

1. A letter of request.
2. Plats, plans and data as specified in Article IV of this Chapter concerning existing conditions within the site and its vicinity and which shall convey the intentions of the subdivider as to the proposed layout and type of development.
3. A filing fee as specified in Section 410.050.

Section 410.100. Preliminary Plats — Consideration By Planning and Zoning Committee.

A. Upon receipt of an application or a certificate of preliminary approval, the Planning and Zoning Committee shall check the application for conformance to the provisions of this Title and shall also consider letters or certificates of approval or disapproval from City, County and State agencies as well as from the utility companies.

B. In considering a submittal, the Planning and Zoning Committee may require such changes as necessary to meet the intent of the rules and regulations contained in this Title and to serve the best interests of the needs of the community.

Section 410.110. Preliminary Plats — Approving or Disapproving Action By Committee.

A. The Planning and Zoning Committee shall initiate action on an application within thirty (30) days of submittal of the preliminary plat and approval thereof shall be given by the Committee by the issuance of a certificate of preliminary plat approval within sixty (60) days after submittal or if the application is disapproved, the applicant shall be so notified in writing and the reasons therefor shall be enumerated within sixty (60) days after submittal.

B. One (1) copy of the approved preliminary plat shall be retained in the Planning and Zoning Committee's files and one (1) copy, endorsed with the certificate of preliminary plat approval, shall be returned to the subdivider.

Section 410.120. Preliminary Plats — Options of Subdivider Upon Disapproval.

A disapproved preliminary plat may be resubmitted to the Planning and Zoning Committee after changes have been made as suggested, or it may be carried to the Committee for its direct action at its next regular meeting.

Section 410.130. Preliminary Plats — Approved Plats Are Subject To Certain Qualifications.

A. An approved preliminary plat shall be subject to the following qualifications:

1. Approval of a preliminary plat is only tentative pending submission of the final plat.

2. Approval of the preliminary plat shall be effective and binding upon the Planning and Zoning Committee for a period not to exceed eighteen (18) months, and thereafter such approval shall expire and be null and void except to the extent that work on the subdivision has progressed, as set forth in Section 410.160, unless a petition for an extension of time has been submitted to is subsequently approved by the Committee.

Section 410.140. Preliminary Plats — Actions Authorized By Approval.

A. Receipt by the subdivider of the executed certificate of preliminary plat approval is authorization to proceed with:

1. The preparation of any necessary plans and specifications and the installation of any improvements required, subject to the approval of agencies having authority.

2. The preparation of the final plat or part thereof as specified in Section 410.250.

Section 410.150. Final Plats — When Timely — Contents.

Whenever the foregoing provisions of this Chapter have been complied with and while the certificate of preliminary plat approval is in effect, the subdivider may submit to the Planning and Zoning Committee an application for review and approval of the final plat, which shall consist of the final plat and other documents as specified in Sections 410.250 to 410.270, together with a letter of application requesting review and final approval of the plat.

Section 410.160. Final Plats — Action By Planning and Zoning Committee — Effect of No Action Within Sixty Days.

A. Whenever a final plat has been submitted to the Planning and Zoning Committee which is in conformance with an approved preliminary plat and the provisions of Sections 410.250 to 410.270, the Committee shall consider and take action on the plat.

B. The Planning and Zoning Committee need not take action on any application received less than ten (10) days before its meeting; but failure of the Committee to act within sixty (60) days of receipt of the application shall be deemed approval of the final plat and waives all further plat requirements of this Chapter. Such failure to act shall be so noted by the Committee on the plat to be filed for record.

C. If the final plat is disapproved, the applicant shall be so notified in writing within five (5) days and the reasons therefore shall be enumerated.

Section 410.170. Final Plats — Conditional Approval.

A. The Planning and Zoning Committee, upon the request of a subdivider, shall grant conditional approval to the final plat when all requirements of the rules and regulations have been met with the exception of the actual installation of required improvements or the posting of guarantees for such required improvements.

B. Conditional approval of the final plat shall be indicated by the issuance, by the Planning and Zoning Committee, of a notice of conditional final approval.

Section 410.180. Final Plats — Approval.

A. No plat of a subdivision of land lying within the City shall be filed or recorded until it has been submitted to and a report and recommendation thereon shall have been made by the Zoning and Planning Committee and the City Council has approved the plat as provided by State law, this Code and all other applicable ordinances of the City.

B. No County Recorder shall receive for filing or recording any subdivision plat required to be approved by the City Council and Zoning and Planning Committee unless the plat has endorsed upon it the approval of the City Council under the hand of the City Clerk and the Seal of the City.

C. Final approval of the final plat shall be indicated by the execution of a certificate of final plat approval on the plat, and the Planning and Zoning Committee shall execute such certificate when the City Clerk certifies to the Committee that the City has received one (1) of the following:

1. A certificate submitted by the subdivider stating that all improvements and installations to the subdivision required for its approval under the terms of this Chapter and regulations have been made in accordance with these specifications; or

2. A performance bond which shall:

   a. Run to the City;

   b. Be in an amount sufficient to complete the improvements and installations for the subdivision in compliance with this Article;

   c. Be with surety by a company entered and licensed to do business in the State; and

   d. Specify the time for the completion of the improvements and installations; or

3. A cash deposit or a cash escrow deposited with an agent approved by the Planning and Zoning Committee in the full amount as determined necessary to complete the improvements and installations for the subdivision in compliance with this Article. Such cash deposit may be withdrawn in direct proportion to the amount of work completed as approved by the Committee.

Section 410.190. Final Plats — Approval Not Deemed Acceptance of Dedications.

Approval of a final plat by the Planning and Zoning Committee shall not be deemed acceptance of any of the dedications shown on the plat.

Section 410.200. Final Plats — To Be Filed With Committee Following Recording.

Upon recording of the approved final plat, the reproducible print of the final plat with all certificates endorsed shall be returned to the Planning and Zoning Committee for its files.

Section 410.210. Plans, Etc., To Be Submitted Upon Completion of Required Installations and Improvements.

A. Upon completion of the installations and improvements required by this Chapter, the subdivider shall present to the City Clerk and to the Planning and Zoning Committee one (1) complete set each of the "as-built" construction plans and drawings showing the subdivision and its improvements. These sets of "as-built" plans and drawings shall include:

1. Plans of all streets and alleys as constructed and showing the final location of all utility lines.
2. Centerline profiles of all streets.
3. Profiles or invert elevations of all storm and sanitary sewage lines as such improvements shall have actually been installed by the subdivider.
4. A letter submitted by a registered professional engineer to the City and the Planning and Zoning Committee certifying that all improvement and installations have been made in accordance with the submitted "as-built" construction plans and drawings and the standards established by the City and are functioning properly.

B. Upon receipt and verification of the information required by this Section, the City Council may accept the dedications shown on the plat.

Article III. Plat Specifications

Section 410.220. Preliminary Plats — Generally.

A. The submission to the Planning and Zoning Committee shall consist of black or blue line prints on white background, and such other documents as are necessary to meet the requirements of this Chapter.

B. The preliminary plat shall be clearly and legibly drawn. The size of the plat shall not be smaller than eight and one-half (8½) inches by eleven (11) inches. The plat of a subdivision containing six (6) acres or more shall be drawn at a scale of one (1) inch equals fifty (50) feet, unless otherwise determined by the Planning and Zoning Committee.

Section 410.230. Preliminary Plats — Information To Be Shown.

A. The preliminary plat shall contain the following information:

1. Proposed name of subdivision.
2. Name and address of owner of record.
3. Name and address of subdivider.
4. Date of survey, north point and graphic scale.
5. Preliminary engineering certificate.
6. Location and legal description, giving acreage.
7. Except boundary lines of the tract indicated by a heavy line, giving dimensions and angles.

8. Contour intervals to sea level datum, of not more than two (2) feet when the slope is less than four percent (4%) and not more than five (5) feet when the slope is greater than four percent (4%).

9. Natural features within and surrounding the proposed subdivision, including drainage channels, bodies of water, wooded areas and other significant features. On all watercourses leaving the tract, the direction of flow shall be indicated and for all water drainage courses entering the tract, the drainage area above the point of entry shall be noted.

10. Cultural features within and surrounding the proposed subdivision, including existing and platted streets, bridges, culverts, utility lines, pipelines, power transmission lines, all easements, park areas, structures, City and County lines, section lines and other significant information.

11. Names of streets within the immediate area of the proposed subdivision.

12. Names of recorded subdivisions abutting the proposed subdivision.

13. Zoning districts, if applicable.

14. Proposed layout, including lot lines with rough dimensions, lot number, block numbers, street and alley lines with proposed street names, right-of-way widths, sites reserved for parks, playgrounds, schools, etc., sites for non-public uses and building lines with dimensions.

Section 410.240. Preliminary Plats — Accompanying Information.

A. The preliminary plat shall be accompanied by the following information:

1. A summary of the proposal, giving information as to the overall development plan with type of structure, number of dwelling units, types of business and industry, so that the effects of the development can be determined by the Planning and Zoning Committee.

2. Existing and proposed covenants and restrictions.

3. Source of water supply as approved by State Division of Health.

4. Provisions for sewage disposal, drainage and flood control as approved by State Water Pollution Board.

5. Letters or certificates of approval or disapproval from City, County or State agencies, as well as provisions for utility services, as applicable.

6. Typical cross sections of all streets and street construction plans. Centerline profiles of approximate street grades derived from office computations may be required by the Planning and Zoning Committee, if deemed advisable.

7. Such other information as the subdivider wishes to bring to the attention of the Planning and Zoning Committee.

Section 410.250. Final Plats — Generally.

A. The submission of final plats shall consist of the original drawing plus other documents as are necessary to meet the requirements of this Article and the requirements of State law. The subdivider shall also furnish the Planning and Zoning Committee with one (1) reproducible print of the final drawing showing the executed certificates, as specified in Section 410.230.

B. The final plat shall be clearly and legibly drawn in black ink on tracing cloth or paper vellum. The size of the plat shall not be larger than seventeen and one-half (17½) inches by twenty-three and one quarter (23¼) inches, including margins, when the plat is drawn at a scale of one (1) inch equals one hundred (100) feet to the nearest one-tenth (0.1) foot, necessary internal angles, arcs and chords and tangent or radii of rounded corners.

C. The final plat shall conform to the preliminary plat, except for scale and it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at any one time; provided, that such portion conforms to the requirements of this Chapter.

Section 410.260. Final Plats — Information To Be Shown.

A. The final plat shall contain the following information:

1. Proposed name of subdivision.
2. Name and address of owner of record.
3. Name and address of subdivider.
4. Date of survey, north point and graphic scale.
5. Location and legal description, giving acreage.
6. Vicinity map.
7. Key map, when more than one (1) sheet is required to present plat.
8. Courses and distances to the two (2) nearest established section corners or bench marks or other recognized permanent monuments which shall accurately describe the location of the plat.
9. Exact boundary lines of the tract or other acceptable control traverse, giving dimensions to the nearest one-tenth (0.1) foot and angles to the nearest thirty (30) seconds, which shall be balanced and closed with an error of closure not to exceed one (1) to five (5) thousand. The type of closure shall be noted. Boundary lines shall be indicated by a heavy line.
10. Municipal, County or section lines accurately tied to the lines of the subdivision when such traverse or are reasonably close to the subdivision.
11. Names of recorded subdivisions abutting the subdivision.
12. Names of streets within the immediate area.
13. Street and alley and other right-of-way lines, with location and width, with street names indicated.
14. Street centerlines, showing angles of deflection, angles of intersection, radii, length of tangents and arcs and degree of curvature with basis of curve data.
15. Lot lines and dimensions to the nearest one-tenth (0.1) foot, necessary internal angles, arcs and chords and tangent or radii of rounded corners.
16. Building lines with dimensions.

17. When lots are located on a curve or when side lot lines are at angles other than ninety degrees (90°), the lot width at the building line shall be shown when required by the Planning and Zoning Committee.

18. Lot and block numbers.

19. Easements and public service or utility right-of-way lines giving dimensions, location and purpose.

20. Accurate outlines and description of any areas to be dedicated or reserved for public use or acquisition with the purposes indicated thereon; and of any areas to be reserved by deed covenant for common uses of all property owners.

21. Accurate location and description of all monuments.

22. Certificate of engineering accuracy.

23. Certificate of owner.

24. Certificate of final plat approval.

25. Certificate of recording.

26. All other information required by State law.

Section 410.270. Final Plat — Accompanying Information.

A. The final plat shall be accompanied by the following information and documents unless shown on the plat itself:

1. Bill of assurance including, but not limited to, the following provisions: offering dedications of streets and alleys, parks and other public lands; establishing easements, setting forth privileges and conditions pertaining thereto; setting forth the restrictions and covenants of the subdivision; and setting forth procedures by which amendments to the bill of assurance can be made. Such bill of assurance shall contain reference to the approval of the final plat.

2. Certification of approval of water supply and sanitary sewage disposal and utility services by the appropriate agencies.

Section 410.280. Required Certificates — For Preliminary Plats.

A. *Preliminary Engineering Certificate*.

I hereby certify that this proposed preliminary plat correctly represents a survey completed by me on_____, 20_____, of property shown and described hereon; and described monument placed on the property are correctly described and located in accordance with the established and accepted monuments in the vicinity.

(Signed) Name Registered Professional Engineer No.____,

Date of Execution Missouri

B. *Certificate Of Preliminary Plat Approval*.

All requirements of the Carterville subdivision rules and regulations relative to the preparation and submittal of a preliminary plat having been fulfilled, approval of this plat is hereby granted, subject to further provisions of said rules and regulations.

This Certificate shall expire _____ (Date)

(Signed)

Name Chairman, Planning and Zoning

Committee Date of Execution

Section 410.290. Required Certificates — For Final Plats.

A. Each final plat submitted to the Planning and Zoning Committee for approval shall carry the following certificates printed thereon substantially as follows:

1. *Certificate of owner(s)*.

We, the undersigned, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat and subdivide, said real estate in accordance with the plat.

(Signed) Name
Address

Date of Execution

2. *Certificate of recording*.

This document, number _____ filed for record _____, 20_____, at _____

o'clock __.M. , recorded _____ 20_____, in Plat Book _____, Page _____.

For Bill of Assurance, see Deed Record Book _____ Page _____.

3. *Certificate of engineering accuracy*.

I hereby certify that this plat represents a survey and a plan made by me; that all monuments shown hereon actually exist and their location, size, type and material are correctly shown; and that all

engineering requirements of the City subdivision rules and regulations have been fully complied with.

(Signed) **Name Registered Professional Engineer No.____,**

Date of Execution **Missouri**

4. The certificate of final plat approval shall be printed on both the final plat and bill of assurance substantially as follows:

Certificate Of Final Plat Approval

Pursuant to the Carterville subdivision rules and regulations, this document was given final approval by the Carterville Planning and Zoning Committee at the meeting held _____, 20_____. All of

the conditions of approval having been completed, this document is hereby accepted and this certificate executed under the authority of said rules and regulations.

(Signed)

Name Chairman, Planning and Zoning Committee

Date of Execution

Approved by the City Council of the City of Carterville, Missouri, pursuant to Section 89.400 RSMo., as amended, on the ____ day of_____, 20___.

(Seal)

City Clerk

Article IV. General Requirements and Conditions

Section 410.300. Suitability of Land.

A. Land subject to flooding, improper drainage or erosion, and any land deemed to be topographically unsuitable for residential use shall not be platted for residential occupancy, nor shall such land be platted for any other uses as may continue such conditions or increase danger to health, safety, life or property unless steps are taken to diminish the above-mentioned hazards.

B. Such land within a proposed subdivision not detrimental to the development of the subdivision shall be set aside for use and shall not be endangered by the conditions set forth in Subsection (A) of this Section.

Section 410.310. Access.

Every subdivision shall be served by a publicly dedicated street.

Section 410.320. Conformance To Comprehensive Plan — Waivers.

A. All proposed subdivisions shall conform to the Comprehensive Plan in effect at the time of submission to the Planning and Zoning Committee.

B. All highways, street and other features of the Comprehensive Plan shall be platted by the subdivider in the location and to the dimension indicated on the Comprehensive Plan. In the subdivisions related to or affecting any State or Federally numbered highway, the approval of the State Highway Department may be required by the Planning and Zoning Committee.

C. Where such features of the Comprehensive Plan other than streets are located in whole or in part in a proposed subdivision, such planned features shall be reserved by the subdivider in the location and to the dimension indicated on the Comprehensive Plan.

D. The Planning and Zoning Committee shall waive the above-mentioned platting and reservation requirements of Subsections (B) and (C) of this Section whenever the public body responsible for land acquisition executes a written release stating that such planned feature is not to be acquired.

E. The Planning and Zoning Committee shall disapprove plats when such planned features, as specified by the Comprehensive Plan, are not incorporated into the plat.

Section 410.330. Zoning or Other Requirements.

No final plat of land within the force and effect of an existing zoning ordinance shall be approved unless it conforms to ordinance. Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the zoning regulations, Building Code or other official regulations or ordinances, the most restrictive shall apply.

Section 410.340. Street and Subdivision Names.

The Planning and Zoning Committee may change street names and subdivision names when in conflict with existing names.

Section 410.350. Large Tracts or Parcels.

When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged and designed so as to allow for the opening of future streets and to provide access to those areas not presently served by streets.

Section 410.360. Large Scale Developments.

A large-scale development including the construction of two (2) or more buildings together with the necessary drives and ways of access which is not subdivided into customary lots, blocks and streets may be approved by the Planning and Zoning Committee if, in the opinion of the Committee, a departure from this Article can be made consistent with the intent thereof. Plans for such developments shall be submitted to and approved by the Committee whether or not such plat is to be recorded, and no building permits shall be issued until such approval has been given.

Section 410.370. Modifications.

A. Modifications of the provisions set forth in this Article may be authorized by the Planning and Zoning Committee in specific cases when, in its opinion, undue hardships may result from strict compliance. Any determination shall be based fundamentally on the fact that unusual topographical and other exceptional conditions require such modification and that the granting of the modifications will not adversely affect the general public or nullify the intent of these regulations.

B. Application for any of the above-mentioned modifications shall be filed in writing, with necessary supporting documents, with the Planning and Zoning Committee by the subdivider simultaneously with the preliminary plat of the subdivision and shall explain in detail the reasons and facts supporting the application.

Article V. Design Improvements

Section 410.380. Streets and Alleys — Generally.

A. The location and width of all highways, streets and roads shall conform to the Comprehensive Plan.

B. The proposed street system shall extend existing streets or projections at the same or greater width, but in no case less than the required minimum width.

Section 410.390. Streets and Alleys — Right-Of-Way Widths.

Street and alley right-of-way widths shall be as follows:

Collector streets: 80 feet.

Minor streets: 50 feet.

Cul-de-sac: 50 feet radius.

Alleys: 20 feet.

Section 410.400. Streets and Alleys — Paving Widths and Types.

Street paving widths and types shall be as follows:

Collector streets: 42 feet back of curb to back of curb.

Minor streets: 27 feet back of curb to back of curb.

Cul-de-sac: 27 feet back of curb to back of curb.

Cul-de-sac turnarounds: 40 feet pavement radius.

Alleys: 20 feet.

Section 410.410. Streets and Alleys — When Dedication of Additional Right-Of-Way Required.

A. Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the foregoing minimum street width requirements for each side of the centerline, as follows:

1. The entire right-of-way as required by the Comprehensive Plan, in an amount up to one hundred (100) feet, shall be provided where any part of the subdivision is on both sides of an existing street.

2. When the subdivision is located on only one (1) side of an existing street, one-half (½) of the required right-of-way, but in no case less than twenty-five (25) feet, measured from the centerline of the existing right-of-way, shall be provided.

Section 410.420. Streets and Alleys — Frontage Roads.

When a tract fronts on streets other than minor streets, or collector streets the Planning and Zoning Committee may require affected lots fronting on such major streets to be provided with frontage roads.

Section 410.430. Streets and Alleys — Grades.

Grades on minor streets and cul-de-sacs shall not exceed twelve percent (12%). Grades on all other streets shall not exceed standards of the Comprehensive Plan, or when no standards have been established, seven percent (7%) shall be the maximum grade permitted. Street grades along the gutter shall not be less than one-half of one percent (.5%) when adequate drainage can be obtained.

Section 410.440. Streets and Alleys — Alignment.

A. Alignment of streets shall be as follows:

1. Minimum horizontal—radii of centerline curvature:

   Collector streets: 270 feet.

   Minor streets: 140 feet.

   Loop streets and cul-de-sac streets: 75 feet.

2. Tangents—between reverse curves there shall be not less than minimum tangent for:

   Collector streets: 200 feet.

   Minor streets: 100 feet.

Section 410.450. Streets and Alleys — Visibility Requirements.

A. Visibility requirement for streets shall be as follows:

1. Minimum vertical visibility (measured between two (2) points four (4) feet above pavement level) shall be:

   Collector streets: 500 feet.

   Minor streets: 200 feet.

2. Minimum horizontal visibility measured on centerline shall be:

   Collector streets: 300 feet.

   Minor streets: 200 feet.

Section 410.460. Streets and Alleys — Intersections.

A. Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle less than sixty degrees (60°). Detailed designs of intersections may be required.

B. Property line radius at street intersections shall not be less than twenty (20) feet and where the angle of street intersection is less than ninety degrees (90°), the Planning and Zoning Committee may require a greater radius.

C. Curb line radius at street intersections shall be at least fifteen (15) feet and where the angle of street intersection is less than ninety degrees (90°), the Planning and Zoning Committee may require a greater radius.

Section 410.470. Streets and Alleys — Street Jogs.

Street jogs with centerline offsets of less than one hundred forty (140) feet shall not be permitted.

Section 410.480. Streets and Alleys — Cul-De-Sacs.

Cul-de-sac streets or courts designed to have one (1) end permanently closed shall be no more than six hundred (600) feet long. There shall be provided at the closed end a turnaround having an outside right-of-way diameter of at least one hundred (100) feet.

Section 410.490. Streets and Alleys — Alleys.

Alleys may be required at the rear of all lots to be used for business purposes but need not be provided in residential blocks.

Section 410.500. Blocks.

A. Residential blocks shall not be less than three hundred (300) feet or more than one thousand three hundred twenty (1,320) feet in length, except as the Planning and Zoning Committee considers necessary to assure efficient use of land or to achieve desired features of the street system. In blocks over one thousand (1,000) feet long, the Committee may require public crosswalks across the block.

B. Residential blocks shall be wide enough to provide two (2) tiers of lots of minimum depth, except where prevented by topographical conditions or size of the property, in which case, the Planning and Zoning Committee may approve a single tier of lots of minimum depth.

Section 410.510. Lots — Generally.

A. Insofar as practical, side lot lines shall be perpendicular or radial to street lines. Each lot shall abut upon a public street or road.

B. The size, shape and orientation of every lot shall be subject to approval of the Planning and Zoning Committee for the type of development and use contemplated. No lot shall be more than four (4) times as deep as it is wide nor shall any lot average less than one hundred (100) feet deep.

C. A fee of eighty-nine dollars ($89.00) shall be paid with each application for a lot split, lot line adjustment or lot consolidation.

Section 410.520. Lots — Residential.

A. Every residential lot not served by a water main shall be no smaller than twenty thousand (20,000) square feet.

B. Every dwelling hereafter erected, moved or altered and served by a public sewer system shall not be less than seventy-five (75) feet wide at the building line or less than seven thousand five hundred (7,500) square feet in area, provided that where a lot has less area than herein required in separate ownership at the time of the passage of these Zoning Regulations, this regulation shall not prohibit the erection of a single-family dwelling.

C. Building lines, for residential lots shall be at least twenty-five (25) feet from each front street property line and at least fifteen (15) feet from each side street property line and building line shall be ten (10) feet from side lot line. Corner lots shall be at least seventy-five (75) feet wide to allow for side street building lines. Building lines may be less than twenty-five (25) feet when the average slope of the first (1st) fifty (50) feet of the lot is greater than twenty percent (20%).

D. Lots, other than corner lots, fronting on two (2) streets shall not be platted except under exceptional circumstances in which case building lines shall be established on both frontages.

Section 410.530. Lots — Commercial and Industrial.

A. The size, shape and arrangement of commercial and industrial lots, where platted, shall be subject to the approval of the Planning and Zoning Committee, provided that approval is not granted under the provisions of Section 410.270.

B. Building lines for commercial and industrial lots shall be at least forty (40) feet from each street property line.

Section 410.540. Easements.

Easements not less than fifteen (15) feet wide may be required by the Planning and Zoning Committee for drainage and utility lines.

Article VI. Improvements

Section 410.550. Required — Responsibility of Subdivider.

Every subdivider shall be required to install, at his/her own expense or to have installed by the appropriate public utility, the improvements set out in this Article.

Section 410.560. Street Grading.

All streets shall be cleared and graded. Finished grades shall be at levels approved by the Planning and Zoning Committee.

Section 410.570. Street Paving.

A. Street paving widths shall be in conformance with standards set forth in the Comprehensive Plan.

B. Streets shall be paved to widths specified in Section 410.400. The subdivider shall install pavement up to forty-two (42) feet in width.

C. Street pavements shall be installed according to standards adopted by the City Council.

Section 410.580. Curbs and Gutters.

Curbs and gutters shall be installed on all streets. Installations shall be in accordance with standards adopted by the City Council.

Section 410.590. Sidewalks.

A. Sidewalks shall have a width of four (4) feet and shall be installed on one (1) side of all streets in all subdivisions.

B. Sidewalks shall be constructed on both sides of collector streets.

C. The Planning and Zoning Committee may require additional sidewalks and wider sidewalks near commercial areas, schools and other places of public assembly.

D. Sidewalks in residential areas shall not abut street curbs and gutters and shall conform to standards adopted by the City Council.

Section 410.600. Utility Lines — Water Supply.

A. Where a public water supply is within a reasonable distance, the subdivider shall install or have installed a system of water mains and connect to such supply. A connection to each lot shall be installed prior to the paving of the street, if possible.

B. Where a public water supply is not available, each lot in a subdivision shall be furnished with a water supply system approved by the State Division of Health.

Section 410.610. Utility Lines — Sanitary Sewage Disposal.

A. Where a public sanitary sewer is within one hundred (100) feet of any point of a subdivision, the subdivider shall connect with such sewer and provide a connection to each lot.

B. Such sanitary sewerage system shall be installed prior to the installation of the street pavement.

C. Where a public sanitary sewer is not accessible, an alternate method of sewage disposal system may be used as approved by the State Department of Natural Resources.

Section 410.620. Utility Lines — Wording of Two Preceding Sections Defined.

Subsection (B) of Section 410.600 and Subsection (C) of Section 410.610 shall be interpreted to mean that the subdivider shall cause the improvements referred to therein to be installed or whenever a septic tank and absorption system or private water supply is to be installed, that the subdivider shall require, as a condition of the sale of each lot or parcel in the subdivision, that those facilities shall be installed by the developers of the lots in accordance with the provisions of this Article.

Section 410.630. Storm Drainage.

A. Every subdivision shall be served by storm drainage facilities.

B. All drainage facilities shall be so designed to serve the entire drainage area.

C. All surface water drainage shall be transported to drainage facilities approved by the Planning and Zoning Committee.

D. Whenever drainage ditches are used, such ditches shall retain original design characteristics and be so designed that they do not present a hazard to life and safety.

Section 410.640. Utility Lines — Miscellaneous.

Other utilities to be installed in a subdivision shall be located in the grass plot outside of the curb lines. If stubs to the property lines are not installed, then connections between the lots and the utility lines shall be made without breaking into the wearing surface of the streets, if possible.

Section 410.650. Monuments.

A. Monuments shall be of concrete at least four (4) inches in diameter or square, three (3) feet long, with a flat top. Tops of monuments shall have an indented cross or metal pin to identify properly the location of the point and shall be set flush with the finished grade. Monuments shall be set on all outside lines of the subdivision at angle points and points of curve.

B. All lot corners shall be marked with metal pins not less than one-half (½) inch in diameter and twenty-four (24) inches long and driven so as to be flush with the finished grade.

Section 410.660. Street Name Signs.

Street name signs shall be placed on diagonally opposite corners of each street intersection in conformance with standards adopted by the City.

Section 410.670. Exemptions.

A. The provisions of this Chapter shall not apply to the following:

1. Cemeteries and burial plots while used for that purpose;

2. Divisions of land into lots or tracts, each of which is one-sixty-fourth (1/64) of a section of land or larger or ten (10) acres or larger if the land is not capable of description as a fraction of a section of land. For purposes of computing the size of any lot under this item which borders on a street or road, excluding limited-access streets or roads, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street and the side lot lines of the lot running perpendicular to such centerline;

3. Divisions of land which are the result of the actions of governmental agencies, such as condemnation for road construction purposes;

4. Divisions of land made by testamentary provisions or the laws of descent.

Section 410.680. Exemptions Requiring Administrative Approval.

A. The following are exempted from the full provisions of this Chapter but must be approved by the Mayor or his/her designee.

1. Boundary adjustment plats and deeds, where land taken from one (1) parcel is added to an adjacent parcel, provided that the proposed adjustment does not:

   a. Create any new lots;

   b. Render any existing lot substandard in size or shape;

   c. Render substandard the setbacks to existing development on the affected property; or

   d. Impair any existing access, easement or public improvement.

2. A variance of Subparagraphs (b) and (c) of Subsection (A) may be granted by the Board of Adjustment to insure conformity to the intent of this Section.

B. Lot split plats and deeds, where the division of property results in no more than three (3) tracts or lots or interests, provided that the following conditions are met:

1. All lots or tracts are adjacent to a dedicated and accepted public street.

2. The improvements required by Article V of this Chapter of these regulations are already in existence and available to serve each lot.

3. Each lot will meet requirements of the City zoning regulations without the necessity for any variance and no variance has been granted within the three (3) previous years.

4. No part of the lot split has been approved as part of a previous lot split within three (3) years prior to the date of submission of the original lot split application.

C. This Subsection is intended to implement procedures whereby property owners may split and adjust parcels of land without full compliance of the platting requirements and with administrative approval. Anyone requesting lot split approval shall submit the following to the City;

1. A completed application form.

2. A chain of title or a history of the ownership of the parcel proposed to be split, dating back to January 1, 1974, furnished by a recognized title company. Such information shall be presented so that it may be determined if the proposed land split does or does not constitute a subdivision.

3. *A lot split survey.* The information required for the lot split shall be shown graphically or by note on plans at a standard engineering scale large enough to show all details clearly. The size of the map shall be between eleven (11) inches by seventeen (17) inches and twenty-four (24) inches by thirty-six (36) inches and shall contain the following information:

   a. Name, address and telephone number of the property owner(s).

   b. Name, address and telephone number of the engineer or land surveyor preparing the map, including professional seal and signature.

   c. Graphic and written scale, north indicator (up or to the right) and date of preparation.

   d. Legal description of the property.

   e. The existing zoning classification of the subject site and adjacent properties.

   f. The property boundaries of the existing site.

   g. The parcel boundaries of the proposed parcels to be created and the net area (the area exclusive of roadways dedicated to the public in square feet of each parcel).

   h. The location of existing streets and rights-of-way with all dimensions.

   i. The locations of existing structures, fences, walls, etc.

   j. Certificates required for the recording of the survey plat with the Jasper County Recorder's office.

   k. Any additional pertinent information as required by the staff, such as copies of current covenants, conditions and restrictions, in the case of land splits in recorded subdivisions.

D. The City shall review the application and the proposed land split map for completeness and accuracy. When deficiencies are determined, these shall be noted and relayed to the applicant. No decision shall be rendered until the application is determined to be complete. Department staff in evaluating and making decisions on land split proposals shall consider the following criteria:

1. Consistency of the proposed lot split with the general plan.

2. Conformity of the proposed lot split to the zoning ordinance.

3. Conformity of the proposed land split to Article V (Design Improvements) and other applicable Sections of the subdivision regulations.

4. Conformity of the proposed land split with the City's existing street patterns and details.

5. Lot size and design results from the proposed land split in relation to the site topography.

6. Determination from the title information that a major subdivision is not being created.

7. Other pertinent criteria.

Section 410.690. Street Lighting Policy Pertaining To New Subdivisions.

A. *Standard Street Lighting.* All intersections shall be illuminated by electric lighting, and the spacing of lights shall be one (1) light no more than every three hundred (300) feet and no less than every eight hundred (800) feet. The standard light luminescence shall be seven thousand (7,000)

lumens. The developer's street light layout shall be included in all subdivision plats submitted to the Planning and Zoning Committee.

B. *Decorative Street Lighting.* Street lighting other than standard light fixtures and poles may be installed in a subdivision by a developer or neighborhood association pursuant to the following regulations. All street lighting equipment, design and layout must be approved by the Planning and Zoning Committee. The street light layout must comply, at a minimum, with the requirements of Subsection (A). If street lights exceed the eight thousand (8,000) lumens standard, a one-time excess energy charge of one hundred fifty dollars ($150.00) per light must be paid by the developer or neighborhood association in advance of turning on electrical service. All costs of the non-standard light fixtures and poles, including installation, shall be paid by the developer or neighborhood association. One (1) complete non-standard light fixture and pole for every ten (10) installed must be furnished to the City by the developer or neighborhood association.

Section 410.700. Wind Turbines.

A. *General Provisions*. The City of Carterville finds and declares that wind energy is an abundant, renewable and non-polluting energy resource of the town and that its conversion to electricity will reduce our dependence on non-renewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.

1. The City of Carterville further finds and declares that:

   a. Wind turbines that convert wind energy to electricity are currently available on a commercial basis from many manufacturers.

   b. The generation of electricity from properly sited wind turbines can be cost effective and, in many cases, existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users.

   c. Regulation of the location and installation of wind turbines is necessary for the purpose of protecting the health and safety of neighboring property owners and the general public.

2. Windmills used for the production of electric current or wind energy conservation systems (WECS) are permitted subject to the following general conditions:

   a. The primary purpose of the WECS device must be to provide power for the principal use of the property on which it is located and shall not be for the generation of power for commercial purposes. This provision shall not be interpreted to prohibit the sale of excess power generated from time to time.

   b. The WECS and its location on the property involved shall be designed in such a manner as to eliminate any nuisances to surrounding properties and to limit any noise from said WECS from being heard beyond the boundaries of the property where said WECS is located.

   c. No variance shall be granted in connection with a proposed WECS to permit a height greater than three hundred (300) feet, nor may any device be located so close to a property line as to result in any portion of the device at any time, whether erect or in the event that the device should fall or be toppled, to overhang, cross or otherwise extend beyond the property line.

   d. No WECS shall be located in any required front yard area.

e. No WECS device shall be permitted which causes interference with the reception of television, radio or other communications signals for adjoining properties.

f. An automatic braking, governing or feathering system shall be required to prevent uncontrolled rotation.

g. All power transmission lines from WECS to any building or other structure shall be located underground.

h. No television, radio or other communication antenna may be affixed or otherwise made a part of a WECS.

B. *Specific Requirements.*

1. *Permits.* Every application for a special permit shall be made in writing to the Permits Clerk in accordance with the requirements by the City, shall be accompanied by a filing fee as set forth by the City and shall include the following information:

a. Name and address of the applicant.

b. Evidence that the applicant is the owner of the premises involved or that the applicant has written permission of the owner to make such an application.

c. A plot plan and development plan drawn in sufficient detail to clearly describe:

(1) Property lines and physical dimensions of the site.

(2) Location, approximate dimensions and types of major existing structures and uses on site.

(3) Location and elevation of the proposed WECS.

(4) Location of all above ground utility lines on site or within one (1) radius of the total height of the WECS.

(5) Location and size of structures and trees above thirty-five (35) feet within a five hundred (500) foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.

(6) Show the zoning designation of immediate and adjacent sites.

(7) Include make, model, picture and manufacturer's specifications, including noise decibels.

2. *Installation and operation.* Installation of all wind energy conversion systems shall comply with the following requirements:

a. *Height.* The City will permit WECS whose swept area is one thousand (1,000) square feet or less. (For conventional propeller WECS, this would be approximately thirty-five (35) feet or less in diameter.)

b. *Water pumping.* Non-electrical windmills used for pumping water may be exempted from the provisions of Subsection (B)(2)(c) through (o), but they must be located so as any tip-over will be harmless to others.

c. *Compliance with International Building Code.*

(1) Building permit applications shall be accompanied by standard drawings of the structural components of the wind energy conversion system, including support structures, tower, base and footings. Drawings and any necessary calculations shall be certified, in writing, by a registered professional engineer that the system complies with the International Building Code. This certification would normally be supplied by the manufacturer.

(2) Where the structural components or installation vary from the standard design or specification, the proposed modifications shall be certified by a registered professional engineer for compliance with the seismic and structural design provisions of the International Fire and Building Codes.

d. *Compliance with National Electrical Code.*

(1) Building permit applications shall be accompanied by a line drawing identifying the electrical components of the wind system to be installed in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. The application shall include a statement from a registered professional engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electrical Code. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.

(2) Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a registered professional engineer for compliance with the requirements of the National Electrical Code and good engineering practices.

e. *Rotor safety.* Each wind energy conversion system must be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. The application must include a statement by a registered professional engineer certifying that the rotor and over-speed controls have been designed and fabricated for the proposed use in accordance with good engineering practices. The engineer should also certify the structural compatibility of possible towers with available rotors. This certification would normally be supplied by the manufacturer and include the distance and trajectory of the thrown blade from an exploding turbine or propeller according to the Loss of Blade Theory.

f. *Guy wires.* Anchor points for guy wires for the WECS tower shall be located within property lines and not on or across any above ground electric transmission or distribution line. The point of ground attachment for the guy wires shall be enclosed by a fence six (6) feet high or the WECS shall be set back from the property line or site parameters the total height of the WECS.

g. *Tower access.* Towers should have either:

(1) Tower-climbing apparatus located no closer than twelve (12) feet from the ground;

(2) A locked anti-climb device installed on the tower; or

(3) The tower shall be completely enclosed by a locked, protective fence at least six (6) feet high.

h. *Noise.* The WECS shall meet the requirements of any existing noise ordinance of the City.

i. *Electromagnetic interference.* The wind energy conversion system shall be operated in a manner such that no disruptive electromagnetic interference is caused. If it has been demonstrated to a City Inspector that a wind energy conversion system is causing harmful interference, the operator shall promptly mitigate the harmful interference.

j. *Signs.* At least one (1) sign shall be posted at the base of the tower warning of electrical shock or high voltage.

k. *Height.* The minimum height of the lowest part of the WECS shall be thirty (30) feet above the highest existing major structure or tree within a two hundred fifty (250) foot radius. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open-lattice towers are not considered structures.

l. *Setbacks.*

(1) The WECS shall be set back from any property line, above ground utility line or other WECS a distance greater than either its overall height including blades.

(2) Contiguous property owners may construct a WECS for use in common, provided that the required setback is maintained relative to the property lines of non-participant owners.

m. *Utility notification (for those WECS which will be interconnected to a utility grid).* No wind turbine shall be installed until evidence has been given that the utility company has been notified in writing and will permit the interconnection.

n. *Abatement.* If a wind energy conversion system or systems are not maintained in operational condition for a period of one (1) year and/or pose a potential nuisance or safety hazard, the owner or operator shall take expeditious action to remedy the situation. The City reserves the authority to abate any hazardous situation and to pass the cost of such abatement on to the owner or operator of the system. If the City determines that the WECS has been abandoned and/or poses a nuisance or safety hazard, the system shall be removed within forty-five (45) days of written notice to the owner or operator of the system.

o. *Lighting of tower.* Lighting of the tower for aircraft and helicopter will conform with FAA standards for wattage and color.

p. *Environmental impact.* The project must be viewed for visual pollution and for a possible environmental impact statement.

C. *Penalties For Offenses.* Any person who violates any provision of this Section shall be guilty of a violation and subject to a fine of not less than five hundred dollars ($500.00), imprisonment not to exceed fifteen (15) days or both such fine and imprisonment.

Chapter 415. Mobile Homes, Mobile Home Parks, and Recreational Vehicles

Section 415.010. Occupying Recreational Vehicles Prohibited.

A. It shall be unlawful, within the City of Carterville, for any person to occupy for temporary or permanent residence, any motor vehicle, recreational vehicle, motor home, tent camper, truck camper, travel trailer or other temporary structure. Occupying for the purpose of temporary residence may be granted by the Planning and Zoning Committee for such circumstances deemed

necessary due to displacement from the home or while repairs are being completed to the primary residence with such temporary residential purposes to be limited to ninety (90) days unless extended by Planning and Zoning Committee.

Section 415.020. Mobile Home Parks Prohibited.

It shall be unlawful for any person to maintain or operate a mobile home park within the City. Larger parcels must be subdivided, and each individual structure must meet all regulations of this chapter and those of chapter 405 to have multiple living structures placed.

Section 415.030. Mobile Home Placement Within City.

It shall be unlawful for any person to locate a mobile home within the City without prior approval.

Section 415.050. Site Review and Regulations.

A. Each person desiring to place mobile home within the City limits, shall obtain an affirmative recommendation from the Planning and Zoning Committee and a majority vote for approval from the City Council prior to the location or replacement of any mobile home within the city. Applicants must request to be placed on the planning and zoning agenda and must attend with a valid application for review.

B. All applications for a mobile home including new placement or replacement of an existing mobile home must provide a set of final plans drawn to scale and completely dimensioned. Such plans must show the area to be used for the proposed mobile home placement, all proposed entrances, exits, driveways, walkways and off-street parking spaces; the location of mobile home and any connected structures, accessory buildings. The Planning and Zoning Committee shall review the plan and have the authority to impose such reasonable conditions and safeguards on the proposed development as it deems necessary for the protection of adjoining properties and the public interest. Such plans shall be accompanied by the following information:

1. Name and address of the applicant and property owner (if different).
2. Address or location of the intended physical location of mobile home.
3. Extent of the area and dimensions of the site.
4. Size of mobile home and location on lot.
5. Entrance, exits, driveways and walkways.
6. Paperwork from the seller or dealership showing the mobile home was manufactured within five (5) years prior to the date of application.
7. Furnish four (4) photographs, one each of the front, rear and both sides of the proposed mobile home to be located and established.

D. Upon preliminary determination that the proposed placement of a mobile home will meet all regulations, a public hearing upon said application shall occur before the City Council of the City of Carterville, Missouri, concerning the granting or denial thereof. No such application shall be granted nor shall any permit be issued, prior to compliance with this provision.

Public notice of application to locate and establish a mobile home must be placed, at applicant's expense, in a legal newspaper published within Jasper County, Missouri, with said publication being at

least ten (10) days in advance of the hearing date established by the committee and proof of said publication shall be provided and furnished to the City Council by the applicant on or before such hearing date by providing a complete copy of said weekly advertiser.

At least ten (10) days prior to the hearing date specified in Section D above, a sign must be placed by the applicant notifying the public of the application upon the real estate applied for. In placing such signs, they must be clearly visible from the nearest adjacent public street or right-of-way.

E. Application, if approved and not used, shall become null and void after ninety (90) days from date of approval.

Section 415.100. Site Regulations.

A. The following site regulations, in addition to any regulations imposed by State law, shall apply to all replacement and newly located mobile homes within the city:

1. No mobile home shall be permitted without the placement of an eight (8) inch stone or cinder style block surround such that the undercarriage thereof and all the connections thereunder to such mobile home are completely screened from public view.

2. Each mobile home shall be connected to City sewer and water services at the cost and expense of the owner, where and when the same are available within three hundred (300) feet of the real estate upon which such mobile home shall be located and if such services are not available, then each such mobile home shall be connected to a private septic tank system or other waste water treatment system meeting all City, State and Federal regulatory requirements.

3. Each mobile home shall have permanent steps or porches from the mobile home to the lot.

4. Each mobile home shall be connected to electrical utility service.

5. Each mobile home shall have tie downs upon such mobile home or transformed mobile home designed to prevent displacement of said mobile home during periods of high wind.

6.Be placed on a concrete pad or concrete runners sufficient to support said mobile home with dimensions of length and width at least one (1) foot wider or longer than the exterior dimension of the mobile home;

7.Be located upon a lot of ground that is not less than five thousand (5,000) square feet in area; and

8. Be located and established upon real estate such that it is not closer to the lot boundaries thereof than as follows, to wit:

   a. Eight (8) feet from each of the two (2) side lot lines;

   b. Eight (8) feet from the rear lot line; and

   c. Fifteen (15) feet from the front lot line.

9. Be in such condition that no visible exterior elements are missing such as doors, windows, metal siding, roofing panels, etc.

10. Be placed upon parcel of land such that the broadside of the structure runs parallel with the roadway. On corner lots, either roadway may be considered frontage at the discretion of the applicant.

B. The site requirements imposed by Subsection (A) of this Section shall be complied with no later than thirty (30) days after the placement or replacement of an existing non-conforming mobile home upon the permitted lot of ground in accordance with the regulations of this Article.

C. The requirements of Subsection (A)(8) above shall likewise apply for any accessory building, awning, carport, patio, deck, porch or other structure actually attached to any replacement mobile home. Such uses when completely detached and which are separated from a mobile home by at least five (5) feet shall not be required to be located in accordance with the requirements of Subsection (A)(8) above.

D. In addition to the requirements of this section, all regulations in 405.060 and 405.070 must be observed when locating or relocating a mobile home within the city.

Section 415.120. Liability of Real Estate Owner.

A. In the event a replacement mobile home is to be located and established or an existing mobile home is maintained within the City upon real estate not then owned by the person applying for a permit hereunder, then the permit applicant and the record owner or record owners of the real estate upon which the same is to be located and established or maintained shall all be currently, jointly, equally and fully responsible for compliance with the provisions hereof.

B. In the event of the application for location and establishment or maintenance of a mobile home within the City upon real estate not then owned by the permit applicant, then each such application shall require the signature of the owner or owners of the real estate upon which such mobile home is to be located, established or maintained and the specific agreement of the owner or owners of said real estate to be bound by the provisions of the applicable law.

Section 415.130. Enforcement.

A. Any person violating the provisions of this Chapter shall be penalized as follows for each such violation:

1. A fine not to exceed five hundred dollars ($500.00) in amount; and/or
2. An order of the court mandating compliance with the terms and provisions hereof or alternatively requiring removal of the non-complying mobile home from the real estate upon which it is located, established and maintained, together with the actual costs and expenses of compliance or removal thereof.

B. The City Code Enforcement Officer shall be empowered and have the duty of performing the inspections required hereunder.

Chapter 500. Adoption of Building Codes

Section 500.010. International Building Code.

A. *Adopted.* The provisions of the 2012 International Building Code, including all appendixes, except as modified or exempted in Subsection (B), are hereby incorporated in this Section and made a part hereof as though set forth fully herein and are hereby adopted as the official Building Code of the City.

B. *Amendments.*

1. Wherever the phrase *"name of jurisdiction"* or *"local Governing Body"* appears, it shall be construed to mean the "City of Carterville, Missouri."

2. Wherever a fine or imprisonment is imposed, the minimum fine shall be ten dollars ($10.00), and the maximum fine shall be five hundred dollars ($500.00); the maximum period of imprisonment shall be ninety (90) days.

3. Wherever the Code specifies a period of time within which a person must respond or comply with an order of the Code Official, that period of time shall be thirty (30) days.

4. Wherever the phrase *"Code Official"* appears, it shall be understood to mean the City Code Enforcement Officer or the appropriate Building, Plumbing or Electrical Inspector.

5. The following appendixes of the International Building Code are hereby excluded and shall not be adopted by the City:

   a. Appendixes A, B, C, E, F, H, I, J, K, L and M.

Section 500.020. One and Two-Family Dwelling Code.

A. *Adopted.* The provisions, except as modified in this Section, of the 2006 International Residential Code, three (3) copies of which are on file in the office of the City Clerk, are hereby incorporated in this Section and made a part hereof as though set forth fully herein and are hereby adopted as the official One- and Two-family Dwelling Code of the City.

B. *Amendments.*

1. Wherever the phrase *"name of jurisdiction"* or *"local Governing Body"* appears, it shall be construed to mean the "City of Carterville, Missouri".

2. Wherever a fine or imprisonment is imposed, the minimum fine shall be ten dollars ($10.00) and the maximum fine shall be five hundred dollars ($500.00); the maximum period of imprisonment shall be ninety (90) days.

3. Wherever the Code specifies a period of time within which a person must respond or comply with an order of the Code Official, that period of time shall be thirty (30) days.

4. Wherever the phrase *"Code Official"* appears, it shall be understood to mean the City Code Enforcement Officer or the appropriate Building, Plumbing or Electrical Inspector.

Section 500.030. International Mechanical Code.

A. *Adopted.* The provisions of the 2012 International Mechanical Code, including all appendixes, except as modified or exempted in Subsection (B), are hereby incorporated in this Section and made a part hereof as though set forth fully herein and are hereby adopted as the official Building Code of the City.

B. *Amendments.*

1. Wherever the phrase *"name of jurisdiction"* or *"local Governing Body"* appears, it shall be construed to mean the "City of Carterville, Missouri."

2. Wherever a fine or imprisonment is imposed, the minimum fine shall be ten dollars ($10.00), and the maximum fine shall be five hundred dollars ($500.00); the maximum period of imprisonment shall be ninety (90) days.

3. Wherever the Code specifies a period of time within which a person must respond or comply with an order of the Code Official, that period of time shall be thirty (30) days.

4. Wherever the phrase *"Code Official"* appears, it shall be understood to mean the City Code Enforcement Officer or the appropriate Building, Plumbing or Electrical Inspector.

Section 500.040. International Plumbing Code.

A. *Adopted.* The provisions of the 2012 International Plumbing Code, including all appendixes, except as modified or exempted in Subsection (B), are hereby incorporated in this Section and made a part hereof as though set forth fully herein and are hereby adopted as the official Building Code of the City.

B. *Amendments.*

1. Wherever the phrase *"name of jurisdiction"* or *"local Governing Body"* appears, it shall be construed to mean the "City of Carterville, Missouri."

2. Wherever a fine or imprisonment is imposed, the minimum fine shall be ten dollars ($10.00), and the maximum fine shall be five hundred dollars ($500.00); the maximum period of imprisonment shall be ninety (90) days.

3. Wherever the Code specifies a period of time within which a person must respond or comply with an order of the Code Official, that period of time shall be thirty (30) days.

4. Wherever the phrase *"Code Official"* appears, it shall be understood to mean the City Code Enforcement Officer or the appropriate Building, Plumbing or Electrical Inspector.

Editor's Note: See also Ch. 520, Plumbing.

Section 500.050. National Electrical Code.

A. *Adopted.* The provisions of the 2011 NEC (NFPA 70), except as modified in Subsection (B), are hereby incorporated in this Section and made a part hereof as though set forth fully herein and are adopted as the official Electrical Code of the City.

B. *Amendments.*

1. Wherever the phrase *"name of jurisdiction"* or *"local Governing Body"* appears, it shall be construed to mean the "City of Carterville, Missouri".

2. Wherever a fine or imprisonment is imposed, the minimum fine shall be ten dollars ($10.00) and the maximum fine shall be five hundred dollars ($500.00); the maximum period of imprisonment shall be ninety (90) days.

3. Wherever the code specifies a period of time within which a person must respond or comply with an order of the Code Official, that period of time shall be thirty (30) days.

4. Wherever the phrase *"Code Official"* appears, it shall be understood to mean the City Code Enforcement Officer or the appropriate Building, Plumbing or Electrical Inspector.

5. The 2008 National Electrical Code requires ground fault circuit interrupters (GFCI) on all garage and kitchen receptacles. The City requires single receptacles on dedicated circuits for refrigerators, freezers and garage door openers. These circuits, therefore, do not require GFCI within the City.

Cross Reference—As to electricity, ch.515.

Section 500.055. Additional Requirements to National Electrical Code.

A. City requires 3A copper wiring be ran to the mast on all new constructions or upgraded services.

Section 500.060. International Property Maintenance Code.

A. *Adopted.* The provisions of the 2012 International Property Maintenance Code, including all appendixes, except as modified or exempted in Subsection B, are hereby incorporated in this Section and made a part hereof as though set forth fully herein and are hereby adopted as the official Building Code of the City.

B. *Amendments.*

1. Wherever the phrase *"name of jurisdiction"* or *"local Governing Body"* appears, it shall be construed to mean the "City of Carterville, Missouri."

2. Wherever a fine or imprisonment is imposed, the minimum fine shall be ten dollars ($10.00), and the maximum fine shall be five hundred dollars ($500.00); the maximum period of imprisonment shall be ninety (90) days.

3. Wherever the Code specifies a period of time within which a person must respond or comply with an order of the Code Official, that period of time shall be thirty (30) days.

4. Wherever the phrase *"Code Official"* appears, it shall be understood to mean the City Code Enforcement Officer or the appropriate Building, Plumbing or Electrical Inspector.

Section 500.070. International Residential Code.

A. *Adopted.* The provisions of the 2012 International Residential Code, including all appendixes, except as modified or exempted in Subsection (B), are hereby incorporated in this Section and made a part hereof as though set forth fully herein and are hereby adopted as the official Building Code of the City.

B. *Amendments.*

1. Wherever the phrase *"name of jurisdiction"* or *"local Governing Body"* appears, it shall be construed to mean the "City of Carterville, Missouri."

2. Wherever a fine or imprisonment is imposed, the minimum fine shall be ten dollars ($10.00), and the maximum fine shall be five hundred dollars ($500.00); the maximum period of imprisonment shall be ninety (90) days.

3. Wherever the Code specifies a period of time within which a person must respond or comply with an order of the Code Official, that period of time shall be thirty (30) days.

4. Wherever the phrase *"Code Official"* appears, it shall be understood to mean the City Code Enforcement Officer or the appropriate Building, Plumbing or Electrical Inspector.

5. The following appendixes of the International Residential Code are hereby excluded and shall not be adopted by the City:

   a. Appendixes F, H, K, L, O and Q.

Section 500.080. Violation and Penalty.

Any person who shall violate a provision of any of the building codes adopted in this Chapter, specifically those codes adopted in Sections 500.010(A), 500.020(A), 500.030(A), 500.040(A), 500.050(A), 500.060(A),and 500.070(A)of this Chapter, or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan of or directive of the Code Enforcement Officer, or of a permit or certificate issued under the provision of any of the above noted codes, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Chapter 505. Building Regulations

Cross Reference—As to dangerous buildings see, ch.510.

Article I. In General

Section 505.010. City-Owned Buildings and Property — Compliance With Americans With Disabilities Act.

A. All City-owned buildings and property shall be brought into compliance with the Americans With Disabilities Act as soon as reasonably possible.

B. *New Construction, Repair, Etc.* All new construction, remodeling and repair performed upon buildings and properties owned by the City or by any board or commission of the City shall be performed in compliance with the requirements of the Americans With Disabilities Act.

Section 505.015. Standard Details and Specifications For Public Works Construction Projects.

A. The City of Carterville, Missouri, desires to establish a manual containing general specifications governing public works construction projects in order to establish uniform construction practices.

B. The Standard Details and Specifications book is hereby adopted as the City of Carterville's general specifications manual for public works construction projects within the City limits of Carterville.

Article II. Building Permits

Section 505.020. Building Permit — Required.

It shall be unlawful for any person to construct, erect, remodel, repair, demolish or otherwise do any of the work described and regulated in the International Building Code adopted in Section 500.010 without having obtained a permit to do so from the Building Inspector, except as may be otherwise provided by this Article or in such Building Code.

Section 505.030. Building Permit — Fees.

A. No building permit shall be issued for any work for which a permit is required until the fees as set forth below of this code shall have been paid:

1. Where the valuation does not exceed one hundred dollars ($100.00), no fee shall be required.

2. For a valuation over one hundred dollars ($100.00), up to and including ten thousand dollars ($10,000.00), the fee shall be five dollars ($5.00) per thousand ($1,000.00) or fraction thereof.

3. For a valuation over ten thousand dollars ($10,000.00), up to and including twenty-five thousand dollars ($25,000.00), the fee shall be fifty dollars ($50.00) for the first ten thousand ($10,000.00) and an additional four dollars ($4.00) per each additional thousand ($1,000.00) or fraction thereof.

4. For a valuation over twenty-five thousand dollars ($25,000.00), up to and including fifty thousand dollars ($50,000.00), the fee shall be one hundred dollars ($100.00) for the first twenty-five thousand ($25,000.00) and an additional three dollars ($3.00) per each additional thousand ($1,000.00) or fraction thereof.

5. For a valuation over fifty thousand dollars ($50,000.00), up to and including one hundred thousand dollars ($100,000.00), the fee shall be one hundred seventy-five dollars ($175.00) for the first fifty thousand ($50,000.00) and an additional three dollars ($3.00) per each additional thousand ($1,000.00) or fraction thereof.

6. For a valuation over one hundred thousand dollars ($100,000.00), up to and including five hundred thousand dollars ($500,000.00), the fee shall be three hundred twenty-five dollars ($325.00) for the first one hundred thousand dollars ($100,000.00) and an additional two dollars ($2.00) per each additional thousand ($1,000.00) or fraction thereof.

7. For a valuation over five hundred thousand dollars ($500,000.00) and up, the fee shall be eleven hundred twenty-five dollars ($1125.00) for the first five hundred thousand ($500,000.00) and an additional two dollars ($2.00) per each additional thousand ($1,000.00) or fraction thereof.

B. Permits are required for repairs and alterations. Rates for repairs and alterations shall be the same as for new construction unless otherwise listed as follows:

C. The fee for a permit to demolish a building or structure shall be twenty-five dollars ($25.00) and said permit shall be valid for a period of sixty (60) days.

D. The fee for a permit to install a fence shall be twenty-five dollars ($25.00) and said permit shall be valid for a period of sixty (60) days.

E. The fee for a permit to install roofing with no structural changes to decking, roof pitch, or size shall be twenty-five dollars ($25.00) and said permit shall be valid for a period of sixty (60) days.

F. For the purposes of this Section, the valuation of all other new construction, remodels, or alterations shall be determined by the total square footage according to the following rates:

Type of Construction	**Valuation Rate**
Main Residential Building	
Frame	$50.00 per sq. ft. of living area
Masonry	$60.00 per sq. ft. of living area

Type of Construction	Valuation Rate
Residential Garage or Accessory Building	
Frame	$20.00 per sq. ft.
Masonry	$25.00 per sq. ft.
Residential Basement or Subterranean Area	$15.00 per sq. ft.
Residential Carport or Open Porch	$20.00 per sq. ft.
Main Commercial Building	$70.00 per sq. ft. of ground level $50.00 per sq. ft. of additional levels $30.00 per sq. ft. of subterranean levels
Secondary Buildings	$50.00 per sq. ft.
Main Industrial Building	$30.00 per sq. ft. of ground level $20.00 per sq. ft. of additional levels $15.00 per sq. ft. of subterranean levels
Secondary Buildings	$20.00 per sq. ft.
Storage Sheds	$12.00 per sq. ft.

Applicants may provide, as an alternative to the above schedule, a signed contract for building construction from an independent contractor. Such contract shall serve as the basis for determining the actual building cost and the building permit will be issued using that basis.

Section 505.035. Inspection and Re-Inspection Fees.

A. There will be an inspection fee on all building permits issued by the city to assure compliance with applicable codes, as outlined in subsection C.

B. There will be a reinspection fee when extra inspections are necessary due to any of the following reasons, the fee shall be the same as the inspection fee outlined in subsection C,

   a. When wrong address is provided

   b. When work is not ready for inspection when called

   c. When work is not installed in compliance with city ordinances and/or applicable codes

   d. In any other vent that is of no fault of city inspectors.

C. The Fees are set forth as follows per inspection:

Residential Inspection Fees

Type of Inspection	Cost Per Inspection	Information
Building	$40.00	Footings, Framing, Sheeting
Plumbing	$40.00	Rough-in, Gas
HVAC	$40.00	HVAC Systems
Electrical	$40.00	Temporary Service, Rough-In
Re-Inspections	$50.00	Per failed inspection
Finals	$60.00	Per FINAL inspection on each Trade
Plan Reviews	$50.00	Per Set of Plans to be reviewed

Commercial Inspection Fees

Type of Inspection	Cost Per Inspection	Information
Plumbing	$60.00	Rough-In
Electrical	$60.00	Temporary Service, Rough-In
Re-Inspections	$80.00	Per failed inspection
Street Excavation	$40.00	Driveways, Sidewalks, Street Repairs
Grease Traps	$30.00	
Finals	$100.00	Per FINAL inspection on each Trade
Plan Reviews	$100.00	Per Set of Plans to be reviewed

Service Upgrade Inspections

Type of Inspection	Cost Per Inspection
Basement	$35.00
Plumbing	$40.00
Electrical	$40.00
Carport	$40.00
Open Porch/Deck	$40.00
Generator	$40.00
Each Additional Generator	$25.00

Article III. Building Inspector

Section 505.040. Powers and Duties of Building Inspector.

A. *Position Created*. There is hereby created the position of Building Inspector. The Building Inspector shall be appointed by the City Administrator. In the absence of a City Administrator, the Mayor shall appoint the Building Inspector. This position shall be filled by a full-time or part-time employee, a current employee with additional assigned duties, or an external consulting firm or individual contracted by the City.

B. *Appointment*. The City Administrator may designate any Code Enforcement Officer or any qualified individual to serve as the Building Inspector as needed. This designation shall grant the individual full authority to perform all duties and responsibilities outlined in this Chapter.

C. *Duties***.** The Building Inspector shall be responsible for the administration and enforcement of this Article, including the provisions of the Building Code adopted by this Article, and shall perform such other and related duties as may be required by the City.

D. *Responsibilities***.** The Building Inspector is hereby authorized and directed to regulate, inspect, and determine that materials and workmanship regulated by the Building Code conform to said Code. The Building Inspector shall cause the immediate correction or removal of any non-conformity or defective building.

E. *Supervision.* The Building Inspector shall serve under the supervision of the City Administrator.

Section 505.050. Right To Enter Upon Private Property.

The Building Inspector or other competent person designated by him/her as his/her agent shall have the right to enter into any building in the discharge of his/her official duties; and for that purpose, he/she shall be given prompt access to all buildings, public and private, on application to the company or individual owning or having charge or control thereof.

Article IV. Existing Structures

Section 505.060. Compliance With Code.

Whenever the Building Inspector has found and determined that a building or structure is in violation of or in non-compliance with the International Property Maintenance Code, law or regulation or of any other ordinance of this City, the Building Inspector shall extend to the owner of such building or structure a thirty (30) day period in which to bring such building or structure into compliance with the applicable Building Code, law or regulation.

Section 505.070. Extension of Time For Compliance.

In the Building Inspector's sole discretion, a compliance period exceeding thirty (30) days may be extended to the owner of such building or structure, provided that such extension is granted for the purpose of bringing such building or structure into compliance with the applicable Building Code, law or regulation.

Article V. Building, Plumbing and Electrical Inspectors' Duties

Section 505.080. Duty To Report and Investigate.

The Building Inspector in the course of performing their duties should learn and become informed concerning any person to whom a license has been issued under this Article who is not performing work in accordance with and in violation of the ordinances of the City because of physical or mental infirmity or disability or because of lack of knowledge or skill, or if any such person, because of unreliability in his/her work, makes necessary an excessive amount of inspection work and expense on the part of the City, it shall be the inspector's duty to investigate the matter and to file a written report of such with the Mayor and notify the license holder that such information has been so filed and invite him/her to appear with his/her license before the Mayor at a time and place specified. If the license holder appears at such time, he/she or his/her representative shall be heard concerning the reported information.

Section 505.090. Revocation of License.

If, after the hearing or after the opportunity for hearing, the Mayor finds that the matter so reported is the fact, he/she shall revoke the license of the person concerned and demand its surrender. In that event, the holder thereof shall surrender it to the City Clerk. If the City Clerk receives such certificate,

he/she shall write across the face of it in ink the word *"revoked"*, the date of revocation and the City Clerk's signature.

Section 505.100. Revocation Appealed.

Any decision of the Mayor revoking a license may be appealed to the City Council and if said appeal be denied by the City Council, then the decision may be appealed to the Circuit Court, as established in Chapter 536, RSMo.

Section 505.110. Revocation — Should Not Affect Liability.

The revocation of a person's license does not affect in any respect his/her liability otherwise under this Title for any violation of the provisions thereof.

Section 505.120. Issuance of New License Following Revocation.

If a person whose license has been revoked should desire thereafter to obtain a new license, he/she shall proceed as provided in this Title for obtaining a new license, provided that one (1) year shall have elapsed since the date of revocation.

Article VI. Building Contractors

Section 505.130. License Required.

A. Except as otherwise provided in this Code, no person shall do contracting work of any kind by contract or on a time-and-wage basis or by employment of some other person who is not duly licensed to do the work, or assume to direct or supervise any work in the City unless he/she then shall hold an unrevoked contractor's license issued to him/her by the City, as provided in this Article.

B. A person who is not a licensed contractor but who is employed by a contractor who is licensed as provided in this Article may do contracting work for such a licensed contractor if such work is done by him/her under the continuous and immediate supervision of such licensed contractor. Such employee shall comply at all times with all provisions of this Article other than the one requiring workers to have licenses.

C. The owner of a property may himself/herself do construction and building work to serve such property and he/she may repair existing construction, provided that he/she has obtained the required permit for such work and all the following facts and conditions then exist:

1. The dwelling is a single-family dwelling;
2. The owner is not building such dwelling, or having it built, for sale;
3. The dwelling is not to be sold for at least a year after the completion of the work;
4. The owner has applied for a permit to do such work; and
5. The owner, in doing the work, will comply with all applicable requirements of this Article and, in particular, will duly submit his/her work for inspection by the Building Inspector.
6. Owners of commercial property may act as their own general contractor and hire subcontractors to do the work.

D. Contractors performing renovation, repair, demolition, or painting projects that disturb lead-based paint in homes, child care facilities, and schools built prior to 1978 must be EPA certified and must

follow work practices defined by the EPA to prevent lead contamination. Proof of certification must be presented in order to obtain a building permit or a demolition permit. Permits shall contain a verification statement of a contractor's certification.

Section 505.140. Procedure.

A. Every person desiring to obtain a contractor's license such as is required by this Article to engage in contracting work in this City shall make application to the City according to the following procedure:

1. Present to the City Collector an application, upon a form prescribed and approved by the City, for a contractor's license;

2. Tender to the City Collector, with his/her application, the license fee in the amount of one hundred dollars ($100.00);

3. In conjunction with his/her application and before the application shall be acted upon, submit to the City Collector proof of his/her having obtained comprehensive general contractor's bodily injury liability insurance providing for a limit of not less than one hundred thousand dollars ($100,000.00) for all damages arising out of bodily injuries to or for the death of one (1) person and subject to that limit for each person, a total limit of three hundred thousand dollars ($300,000.00) for all damages arising out of bodily injuries to or death of two (2) or more persons in any one (1) accident, and comprehensive general contractor's property damage liability insurance providing for a limit of not less than fifty thousand dollars ($50,000.00) for all damages arising out of injury to or destruction of property in any one (1) accident and subject to that limit per accident, a total or aggregate limit of three hundred thousand dollars ($300,000.00) for all damages arising out of injury to or destruction of property during the policy period. This insurance must cover below-grade damage and be in full force during the entire construction process; and further be with a company approved by the City; and such insurance shall cover the licensee and all employees of the licensee who may perform work with the City under the provisions of this Article;

4. Each contractor shall file a certificate showing that he/she has Workmen's Compensation insurance if, under the laws of the State, he/she is required to carry such insurance;

5. Failure to comply with any of the requirements of this Section at any time during the term of the license shall result in immediate forfeiture of such license.

Section 505.150. Issuance of License.

Upon compliance with the provisions of Section 505.140 by an applicant for a contractor's license, the City Collector shall issue to such applicant a written license and shall authorize him/her, when the required insurance shall have been obtained, to do work within the City.

Section 505.160. Expiration of License.

Each contractor's license required by this Article shall expire one year from the date of issue, except that if a person holding an unexpired and unrevoked contractor's license issued by the City Collector should apply, before the end of such year and in the manner required by Section 505.140, for any contractor's license for the following year, the City Collector shall issue such license and show thereon that it is for such following year. No contractor's license shall be issued except upon the applicant's complying with the requirements of Section 505.140 regardless of when the application therefor shall be made.

Section 505.170. Annual License Fee.

Every person who is or who shall be doing contracting work in this City and who is required by this Article to have a contractor's license issued by the City Collector shall pay to the City an annual license fee in an amount of one hundred dollars ($100.00). Such license fee shall be paid on or before January first (1st) of the year for which it shall be applicable.

Section 505.180. Suspension.

A. In the event that any holder of a contractor's license shall violate any of the terms or provisions of this Article, his/her certificate may be suspended or revoked by the Contractor Board after notice to the holder of such contractor's license that the Contractor Board has suspended or revoked the same. Such notice shall be in writing. There shall be sufficient service thereof if it shall be deposited in the United States mail directed to the last known address of the holder of the license required by this Title.

B. The holder of a contractor's license which has been suspended or revoked by the preceding Section shall be entitled to appeal to the City Council from the ruling of the Board, which appeal will be informally taken, but in any case, must be taken within ten (10) days after said suspension or revocation of such certificate by the Board. The City Council shall provide full opportunity for the person whose certificate has been suspended or revoked to appear before it and show cause why his/her certificate should not be suspended or revoked.

Chapter 510. Dangerous Buildings

Section 510.010. 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 Carterville, Missouri.

Section 510.020. Dangerous Buildings Defined.

A. All buildings 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.

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 of 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 510.030. Dangerous Buildings Declared Nuisance.

A. 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 reasonably can 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 510.040. Building Inspector.

Any Code Enforcement Officers and the City Inspector shall be Building Inspectors within the meaning of this Chapter.

Section 510.050. Duties of Building Inspector — Procedure and Notice.

A. The Building Inspector 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 places 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 in writing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) successive weeks, the owner, occupant, lessee, mortgagee, agent and all other person having an interest in said building as shown by the land records of the Recorder of Deeds of Jasper County of any building found by him/her to be a dangerous building within the standards set forth in Section 510.020.

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 the County wherein the land is located 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 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 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 Board 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 Board and testify as to the condition of dangerous buildings.

8. Immediately report to the Building Board concerning any building found by him/her to be inherently dangerous and that he/she determined to be a nuisance per se. The Building Board 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 Jasper County. It is unlawful to remove this notice until such notice is complied with.

Provided however, that the order by the Building Board 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 510.060. Building Board.

The standing appointed members of the city's planning and zoning committee shall act as the Building Board under this Chapter. The board shall meet monthly and convene immediately following the adjournment of the planning and zoning meeting.

Section 510.070. Duties of The Building Board.

A. The Building Board shall have the power pursuant to this Chapter to:

1. Supervise all inspections required by this Chapter and cause the Building Inspector to 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 Board shall cause an inspection to be made forthwith. If the Building Board deems it necessary to the performance of their duties and responsibilities imposed herein, the Building Board may request an inspection and report be made by any other City department or retain services of an expert whenever they deem such service necessary.

2. Upon receipt of a report from the Building Inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other person(s) having 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, the board shall hold a hearing giving the affected parties full and adequate hearing on the matter.

Written notice, either by personal service or by certified mail, return receipt requested, or by publication for two (2) successive weeks in a newspaper qualified to publish legal notices, at least ten (10) days in advance of a 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 the County wherein the land is located to appear before the Building Board 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.

3. 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 510.020.

4. If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the Building Board shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other person(s) having an interest in said building as shown by the land records of the County wherein the land is located to repair, vacate or demolish any building found to be a dangerous building 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 the owner or any person having an interest in said building as shown by the land records of the County wherein the land is located 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, no order shall be issued.

5. If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the Building Board shall cause such building or structure to be repaired, vacated or demolished and the property cleaned up as the facts may warrant; and the board shall certify the cost of the work borne by the City for such repair, vacation or demolition or clean up to the City Clerk as a special assessment represented by a special tax bill against the real property affected; said tax bill shall be a lien upon said property and shall be deemed a personal debt against the property owner(s) 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 Subsection (6) of this Section, at the request of the taxpayer this special tax bill may be paid in installments over a period of not more than ten (10) years; said assessment shall bear interest at the rate of nine percent (9%) per annum until paid.

6. As to damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, if an order is issued by the Building Board as provided in Subsection (5) of this Section and a special tax bill or assessment is issued against the property, it shall be deemed a personal debt against the property owner. 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 Subdivisions (a) and (b) of 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:

a. 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 the ordinance.

b. The City shall release the proceeds and any interest that has accrued on such proceeds received under Subdivision (a) of this Subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after the receipt of such insurance monies, unless the City has instituted legal proceedings under the provisions of Subsection (5) of this Section. If the City has proceeded under the provisions of Subsection (5) of this Section, all monies in excess of that necessary to comply with the provisions of Subsection (5) of this Section for the removal, securing, repair and cleanup of the building or structure and the lot on which it is located, less salvage value, shall be paid to the insured.

7. If there are no proceeds of any insurance policy as set forth in Subsection (6) 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 date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.

8. Subsection (6) of this Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.

9. Subsection (6) of 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.

10. The Building Board may certify in lieu of payment of all or part of the covered claim under Subsection (6) 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 Board shall issue a certificate within thirty (30) days after receipt of proof to permit covered claims payment to the insured without the deduction pursuant to Subsection (6) 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 from this Subsection.

Section 510.080. 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 the County wherein the land is located may, within thirty (30) days from the receipt of the order of the Building Board, appeal such decision to the Circuit Court of the County wherein the land is located, pursuant to the procedure established in Chapter 536, RSMo.

Section 510.090. Emergencies.

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the Building Inspector shall report such facts to the Building Board and the board may cause the immediate repair, vacation or demolition of such dangerous building and cleanup of the property. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section 510.070(5).

Section 510.100. Violations — Disregarding Notices or Orders.

A. 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 Board shall be guilty of a misdemeanor and upon conviction shall be punishable as set forth in Section 100.110 of this Code.

B. Any person removing any notices provided for in this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with Section 100.110 of this Code.

Chapter 515. Electricity

Cross References—As to adoption of the electrical code, §500.050; as to duties of inspectors, ch.505.

Article I. In General

Section 515.010. Compliance With Electrical Code.

A. *Violations.* It shall be unlawful for any person to fail, neglect or refuse to comply with any provision of the National Electrical Code, adopted in Section 500.050, or the City Electrical Code. In the event of conflict between codes, the City Electrical Code shall assume precedence.

B. *Notice.* The Electrical Inspector shall serve a notice of violation or order on the person responsible for the wiring, rewiring, alteration, repair or removal of any electrical work in violation of the provisions of this Chapter or in violation of a detailed statement or a plan approved thereunder or a violation of a permit or certificate issued under the provisions of this Chapter, and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

C. *Prosecution.* If the notice of violation is not complied with promptly, the Electrical Inspector shall request the attorney for the City to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of this Chapter or of the order or direction made pursuant thereto.

D. *Violation Penalties.* Any person who shall violate a provision of this Chapter or who shall fail to comply with any of the requirements thereof or who shall wire, rewire, alter, repair or remove any electrical work in violation of an approved plan or directive of the Electrical Inspector or of a permit or certificate issued under the provisions of this code shall be guilty of a violation of the Electrical Code punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment not exceeding ninety (90) days or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

E. *Abatement.* The imposition of the penalties prescribed in this Section shall not preclude the attorney for the City from instituting appropriate action to prevent unlawful electrical work or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct, business or use of a building or structure in or about any premises.

Article II. Electrical Inspector

Section 515.020. Office of Electrical Inspector.

There is hereby created the office of Electrical Inspector and such assistant Electrical Inspectors and other personnel as may from time to time be authorized by the City Council. The Electrical Inspector shall be appointed by the Mayor with the approval of the City Council. The city Building Inspector may serve as the Electrical Inspector when the office is vacant.

Section 515.030. Powers and Duties — Delegation of Authority.

A. The Electrical Inspector shall be responsible for the administration and enforcement of this Chapter, including the provisions of the Electrical Code adopted by this Chapter and he/she shall perform such other and related duties as may from time to time be required of him/her by the City Council. Any duty imposed upon the Electrical Inspector may be performed by his/her duly authorized assistant or agent.

B. the Electrical Inspector is hereby authorized and directed to regulate, inspect and determine the placing of electric light and power wires in and on buildings in the City in such manner as to prevent fires, accidents or injury to persons or property.

C. The Electrical Inspector shall cause all electrical appliances to be placed, constructed and guarded so as not to cause fires or accidents or endanger persons or property; and whenever in his/her judgment any electric wire or appliances shall be defective for any reason, he/she shall cause the immediate correction or removal of such defect.

D. The Electrical Inspector or his/her agent shall have the power to cause the removal of all wires or the turning off of all currents, where the circuits interfere with the work of the Fire Department.

E. The Electrical Inspector shall submit a monthly report of his/her activities to the Planning and Zoning Committee.

Section 515.040. Right To Enter Upon Private Property.

The Electrical inspector or other competent person designated by him/her as his/her agent shall have the right to enter into any building or manhole in the discharge of his/her official duties or for the purpose of making tests of the electrical apparatus or appliances therein contained; and for that purpose he/she shall be given prompt access to all buildings, public and private, and to all manholes on application to the company or individual owning or having charge or control thereof.

Section 515.050. Compensation.

The Electrical Inspector shall receive a salary as established by the City Council.

Section 515.060. Powers and Duties.

The Electrical Inspector shall recommend safe and practical standards and specifications not inconsistent with the Electrical Code adopted in Section 500.050 for the installation, alteration and use of electrical equipment designed to meet the necessities and conditions that prevail in the City; shall recommend reasonable rules and regulations governing the issuance of permits for electrical installations; and shall recommend reasonable fees to be paid therefore and for inspections, provided that such standards and rules and regulations all not be effective until they have been approved by the City Council.

Article III. Permits — Inspections — Certificates of Approval — Installation Standards

Section 515.070. Permit Requirements — Installation and Alteration.

A. *Requirements.* No electrical wiring and no devices, appliances or equipment for the transmission, distribution or utilization of electrical energy for any purpose shall be installed within or on any building or structure, nor shall any person undertake the alteration of such equipment without first securing a permit for said installation from the city.

B. A stop work order will be issued for any job found to be in progress where a permit has not been issued. Work may not resume until a permit has been applied for and secured.

C. The fee for such permit shall be double the normal fee.

D. *Exceptions.*

1. No permit shall be required for any wiring installation with a maximum cost of forty dollars ($40.00).

2. No permit shall be required for the installation of wiring devices, appliances or equipment for the operation of signal or the transmission of intelligence where such wiring, devices and appliances or equipment operate at the voltage not exceeding fifty (50) volts between conductors and do not include generating or transforming equipment capable of supplying more than sixty (60) watts of energy.

3. No permit shall be required for the installation of electric wiring and apparatus in or on any electric generating station, power house or substation or in connection with the distributing line in or on the streets or alleys for electric light and power, telegraph, telephone or cable television companies operating under a franchise granted by the City.

Section 515.080. Permit Application and Expiration.

A. No permit shall be issued until an application is filed in writing and until fees have been paid. Application shall be made on forms provided by the city and shall be completed in such a manner as to advise him/her fully of the nature and extent of the proposed work. Such application shall include the following:

1. Location at which the work is to be done;
2. Name and address of the property owner;
3. Name and address of the person or firm in charge of the work;
4. Description of the work to be done;
5. Capacity in amperes of the entrance panel to be installed, if any;
6. Number of circuits to be installed; and
7. Estimated date of completion of work.

B. The application shall be, at the discretion of the Electrical Inspector, accompanied by such plans, specifications or information as may be necessary to determine whether the installation as described will be in conformity with the requirements of this Chapter. If it shall be found that the installation as described will in general conform with requirements of this Chapter and if the applicant has complied with all of the provisions of this Chapter, a permit for such installation shall be issued, provided however, that the issuance of the permits shall not be taken as permission to violate any of the requirements of this Chapter.

C. All permits for electrical work shall expire one (1) year from the date of issue.

Section 515.090. Permit Fees.

A. The following fees will be applied for all failed inspections, failure to show or provide appropriate access to the inspection site, for wrong addresses, and failure to have the address or building permit posted:

1. Any type of an electrical inspection for residential single-family or multifamily dwellings shall be forty dollars ($40.00) per trip, except for those that have permits. Any re-inspection shall be an additional fee of fifty dollars ($50.00).

2. Any type of electrical inspection for commercial or industrial applications shall be sixty dollars ($60.00) per trip, except for those that have permits. Any re-inspection shall be an additional fee of eighty dollars ($80.00).

Section 515.100. Inspection and Certification of Work — General.

A. Upon the completion of each phase of the work authorized by any permit, it shall be the duty of the person installing the same to make a request for inspection.

B. It shall be unlawful for any person to make connection from a source of electrical energy to an electrical wiring, devices, appliance or equipment, for the installation of which a permit is required by this Article, until such certificate of approval has been issued.

C. It shall be unlawful for any person to make connections from a source of electrical energy to any electrical wiring, devices, appliances or equipment which has been disconnected or ordered to be disconnected by the Electrical Inspector until a certificate of approval has been issued by him/her authorizing the reconnection and use thereof

D. The Electrical Inspector or his/her assistant, if any, shall be authorized to make inspections.

E. The City will accept requests for electrical inspections by phone. Inspection requests, if possible, should be made twenty-four (24) hours in advance of the requested inspection, and all phone-in inspection requests must be made through the city offices. Fees for all phone-in inspection requests must be paid within ten (10) days of the date of invoice.

Section 515.110. Inspection and Certificate — Temporary Work.

When a certificate of approval is issued pursuant to the preceding Section authorizing the connection for the use of temporary work, such certificate shall be issued to expire at the time to be stated therein not to exceed a period of ninety (90) days. A temporary certificate of approval is renewable but shall be revocable at the discretion of the Electrical Inspector.

Section 515.120. Inspection and Certificate — Preliminary.

A preliminary certificate of approval may be issued authorizing the connection and use of certain specified portions of an incomplete installation. Such certificate shall be revocable at the discretion of the Electrical Inspector.

Section 515.130. Inspection and Notification — Non-Compliant Work.

A. If, upon inspection, an electrical installation is not found to be fully in compliance with this Chapter, the Electrical Inspector shall at once forward to the person installing the wiring a written notice stating the defects which have been found.

B. An additional fee shall be charged to reinspect work previously found to be non-compliant. The reinspect fee for residential service shall be fifty dollars ($50.00). The reinspect fee for commercial service shall be eighty dollars ($80.00).

Section 515.140. Inspection and Certificate — Installations Requiring Concealment.

When any part of a wiring installation is to be hidden from view by the permanent placement of part of the building, the person installing the wiring shall make written request for inspection to the office of the City Clerk. Such parts of the wiring installation shall not be concealed until they have been inspected and approved by the Electrical Inspector or until forty-eight (48) hours, exclusive of Saturdays, Sundays and legal holidays, shall have elapsed from the time of the receipt by the City Clerk of such request, provided however, that on large installations where the concealment of parts of wiring proceeds continuously, the person installing the wiring shall so state by written request in order that inspections may be made during the progress of the work.

Section 515.150. Installation Standards.

A. All installations shall be in strict conformity with the provisions of this Chapter, the National Electrical Code and the Statutes of this State and shall be in conformity with the approved standards of construction for safety to life and property. In any case where no specific standards for installation are prescribed by such Statutes or by the National Electrical Code, such type of installation as may be directed by the Electrical Inspector shall be used.

B. All wiring in commercial and industrial buildings shall be installed in an approved electrical conduit system.

C. All wiring in commercial and industrial buildings and/or apartment buildings shall be enclosed in conduit.

D. A minimum spacing of three (3) inches must be maintained around all communication cables. Communication cables may not be run through common access holes with power cables.

E. A main disconnect must be installed on the outside of the building near the electric service meter for all new installations and service upgrades for all residential, commercial or industrial applications.

F. "Knob and Tube" (K&T) wiring is prohibited. Wherever this method of wiring is found during rewiring or service upgrades, it must be removed and replaced.

G. All outside receptacles must be installed on dedicated circuits.

H. Ground fault circuit interrupter (GFCI) units installed on whirlpool tubs must be accessible. If the tub does not have a hinged access panel, the GFCI unit must be installed outside of the tub and located a minimum distance of five (5) feet from the tub.

I. Installation of twin or piggy-back breakers is not permitted in new construction. Electrical panels for new construction must have capacity adequate for the project. Twin or piggy-back breakers may be installed in existing panels in existing structures as long as the panel is designed for such installation.

J. Installation of electrical panels in clothes and storage closets, bedrooms, or bathrooms are prohibited. Where electrical panels are installed in utility rooms or mechanical rooms, those rooms shall not be used for storage.

K. Residential electric generators must have a manual transfer disconnect switch installed to disconnect from the electric utility company while the generator is in use. A manual transfer switch must be installed even when a generator features an automatic transfer switch. The City requires a service upgrade at the time of installation of the generator, if the service needs upgrading. Generator installation requires a permit and an electrical inspection.

L. Article 410.10D of the 2011 NEC requires that bath and shower areas must all be GFCI-protected, and wall luminaries must be located a minimum of five (5) feet from the tub or shower's edge and marked for damp locations.

M. Light switches or other switching devices shall not be permitted within five (5) feet of any shower, tub, whirlpool, hot tub, or any other water fixture where a person is to be covered or immersed in water. This includes bathrooms, exercise rooms, gyms, etc.

N. Any outlet adjacent to a tub, shower, whirlpool, hot tub, etc., shall have a permanent barrier separating the outlet from personal access. The barrier in a bathroom shall be from the floor or cabinet edge extending upward to the ceiling and shall be at least two (2) feet deep from the attaching wall.

O. All single-family and multifamily dwelling bathrooms shall be GFCI-protected; including all luminaries, outlets, switches, fans or any other electrical devices or any other type equipment.

P. Approved fittings must be used for ENT conduit (blue smurf tube). PVC coupling and connectors will not be allowed. Glued-on PVC fittings are not allowed. Approved fittings must be used for Carlon-type nonmetallic flexible conduit. PVC couplings and connectors are not approved connectors and will not be accepted in the City.

Q. All smoke detectors shall be one-hundred-twenty-volt hard-wired and shall communicate by either hard-wire or remote communication. This applies to new, remodeled, or occupancies in single-family and multifamily dwellings.

R. Temporary Services. If the temporary service hooks to a pad mount transformer or power pedestal, the temporary meter base shall be for that application. The use of a flex line up the leg of an overhead installation will not be accepted in the City. For an overhead installation, wiring shall meet those standards set forth by Empire District and the 2011 NEC. Aluminum wiring is not allowed on a temporary meter installation. A ground rod shall be driven at all sites.

S. For all kitchens, the two small appliance circuits shall be limited to a total of four (4) duplex outlets on one GFCI each circuit. Additional small appliance circuits may be added with the same limitations and requirements as stated above.

T. Emergency lights shall be installed in all restrooms in commercial and industrial buildings. This includes churches and any other structures of this type.

U. All applications. For heat pumps, air-conditioning units and any other external type of unit, the electrical disconnects must be readily accessible. There must be an unrestricted access of three (3) feet in front of the electrical disconnect, or the electrical disconnect will be required to be located to the side of the unit. The one-hundred-twenty-volt GFCI outlet that is required within twenty-five (25) feet of these units shall also be on the same side of the structure as the units. Multiple units on different sides or roof heights require a GFCI outlet on each side or each level of the units.

V. Underground services shall have expansion joints with approved expansion fittings. All underground metal sweep elbows, forty-five-degree elbows, or any other conduit that is offset or fabricated that are metal shall be bonded regardless of depth below grade, if connected with PVC conduit or PVC nipple to the meter base.

W. For all siding material other than brick, nail plates shall be required both inside and outside of buildings with two-by-four wood stud walls, where wiring is installed horizontally or vertically through studs or plates. Bathrooms and kitchens must have nail plates installed to protect wiring in the area where upper or lower cabinets are installed.

Section 515.160. Electrical Material Standards.

A. No electrical materials, devices, appliances or equipment shall be used or installed in the City unless they are in conformity with the provisions of this Chapter and with the Statutes of this State. The maker's name, trademark or other identification symbol shall be placed on all electrical material, devices, appliances and equipment used or installed under this Chapter.

B. Approved rigid conduit, electrical metal tubing or metal raceways shall be required for all wiring hereinafter installed for light, heat or power purposes in or on all buildings located within the corporate limits of the City with the following exceptions:

1. All frame construction dwellings may be wired with any approved wiring method, including the 3-wire rounded non-metallic wiring.

2. Armored cable may be used for short flexible connections for reflectors in show windows, for concealed wiring in bars or appliances or motors of not more than two (2) horsepower.

3. Wiring on or in masonry walls shall be made in rigid or flexible electrical metallic conduit only. Any changes to any other type of wiring after leaving masonry shall be made only in an approved junction box.

4. Aluminum wiring is not permitted. Wherever aluminum wiring is found during rewiring or service upgrades, it must be replaced.

Section 515.170. Liability For Damages Not Assumed By City.

This Chapter shall not be construed to relieve from or lessen the liability of any party owning, operating, controlling or installing any electrical wiring devices, appliances or equipment for damages to persons or property caused by any defects therein, nor shall the City be held as assuming any such liability by reason of the inspections authorized hereon or certificates of approval issued as provided in this Chapter.

Article IV. Electricians

Section 515.180. License Required.

A. Except as otherwise provided in this Section, no person shall do electrical work of any kind, install any wiring or agree to do any electrical or wire installation, either by contract or on a time-and-wage basis or by employment of some other person, who is not a duly licensed electrician to do the work or assume to direct or supervise any electrical or wiring work in the City unless he/she shall then hold an unrevoked electrician's license issued to him/her by the City as provided in this Chapter. All licensed master, journeyman and apprentice electricians must carry their current electrician's license (including the name of their employer) in their possession on the job site at all times. Failure to produce a valid license upon demand by any City Official shall result in a stop work order until the proper documentation is produced.

B. A person who is not a licensed electrician but who is employed by an electrician who is licensed, as provided in this Chapter, may do electrical work for such licensed electrician if such work is done by him/her under the continuous and immediate supervision of such licensed electrician. Such employee shall comply at all times with all provisions of this Chapter other than the one requiring electrical workers to have licenses.

C. A journeyman electrician who is a full-time wage earner or salaried employee of an industrial plant in this City, who does electrical work only for his/her employer and in his/her electrical work no health hazards are involved, shall not be required to have an electrician's license, but he/she shall comply at all times with the provisions of this Chapter in all other respects.

D. The owner of a property may himself/herself install wiring to serve such property and he/she may repair wiring already serving such property if the wiring does not and will not serve a dwelling and if he/she has obtained the required permit for such work; or if the wiring to be installed or repaired does or will serve a dwelling, he/she may do the work himself/herself if all the following facts and conditions then exist:

1. The owner is to do all the work himself/herself without the help of any person other than a duly licensed electrician;

2. The dwelling is a single-family dwelling;

3. The owner is not building such dwelling or having it built, for sale;

4. The dwelling is not to be sold for at least one (1) year after the completion of the electrical work;

5. The owner has applied for a permit to do such electrical work; and

6. The owner, in doing the work, will comply with all applicable requirements of this Chapter and, in particular, will duly submit his/her work for inspection by the City Electrical Inspector.

Section 515.190. Procedure.

A. Every person desiring to obtain an electrician's license such as is required by this Chapter to engage in electrical work in this City shall make application to the City according to the following procedure:

1. Present to the City Collector an application, upon a form prescribed and approved by the City, for license or, when applicable, an electrician's license from another City which has entered into a reciprocal licensing agreement with this City.

2. The applicant shall tender to the City Collector with his/her application the license fee which shall be valid for one year and shall expire unless renewed in the same manner as all business licenses of the city.

3. In conjunction with his/her application and before the application shall be acted upon, an applicant shall submit to the City Collector proof of his/her having obtained comprehensive general contractor's bodily injury liability insurance providing for a limit of not less than one hundred thousand dollars ($100,000.00) for all damages arising out of bodily injuries to or death of one (1) person and subject to that limit for each person, a total limit of three hundred thousand dollars ($300,000.00) for all damages arising out of bodily injuries to or death of two (2) or more persons in any one (1) accident and comprehensive general contractor's property damage liability insurance providing for a limit of not less than fifty thousand dollars ($50,000.00) for all damages arising out of injury to or destruction of property in any one (1) accident and subject to that limit per accident, a total aggregate limit of three hundred thousand dollars ($300,000.00) for all damages arising out of injury to or destruction of property during the policy period. This insurance must cover below-grade damage and be in full force during the entire construction process and further be with a company approved by the City; and such insurance shall cover the licensee and all employees of the licensee who may perform work within the City under the provisions of this Chapter.

4. Each electrical contractor shall file a certificate showing that he/she has Workmen's Compensation insurance if, under the laws of the State, he/she is required to carry such insurance.

5. Failure to comply with any of the requirements of this Section at any time during the term of the license shall result in immediate forfeiture of such license.

Section 515.200. Issuance of License.

Upon compliance with the provisions of Section 515.190 by an applicant for an electrician's license, the City Collector shall issue to such applicant a written license and shall authorize him/her, when the required insurance shall have been obtained, to do electrical work within the City.

Section 515.210. Expiration of License.

Each electrician's license required by this Chapter shall expire one year from the date of issued, except that if a person holding an unexpired and unrevoked electrician's license issued by the City Collector should apply, before the end of such year and in the manner required by Section 515.190, for an electrician's license for the following year, the City Collector shall issue such license and show thereon that it is for such following year. No electrician's license shall be issued except upon the applicant's complying with the requirements of Section 515.190 regardless of when the application therefore shall be made.

Section 515.220. Annual License Fee.

Every person who is or shall be doing electrical work in this City and who is required by this Chapter to have an electrician's license issued by the City Collector shall pay to the City an annual license fee as follows:

Electrical contractor: $50.00.

Electrical master: $10.00.

Electrical journeyman: $10.00.

Electrical apprentice: $5.00.

Section 515.230. Merchant License Still Required.

Payment of the electrician's license fee assessed by this Chapter shall not relieve any merchant electrician from the payment of any license fees assessed by this Code or any other ordinance of this City against merchants. The term *"merchant electrician"* means a person who is or has been an electrician and who, in addition to doing electrical work, sells fixtures, appliances or merchandise of any kind.

Section 515.240. License Not Transferable.

No person to whom an electrician's license has been issued for the City shall cause or permit the certificate to be used in any manner by another person and no other person except the person to whom the license has been issued shall use the license in any manner.

Section 515.250. Suspension.

A. In the event that any holder of an electrician's license shall violate any of the terms or provisions of this Chapter, his/her certificate may be suspended or revoked by the City Collector who shall also give notice to the holder of such electrician's license that the license has been suspended or revoked. Such notice shall be in writing. There shall be sufficient service thereof if it shall be deposited in the United States mail directed to the last known address of the holder of the license required by this Chapter.

B. The holder of an electrician's license which has been suspended or revoked by the preceding Section shall be entitled to appeal to the City Council from the ruling of the Board, which appeal will be informally taken, but in any case, must be taken within ten (10) days after said suspension or revocation of such certificate by the Board. The City Council shall provide full opportunity for the person whose certificate has been suspended or revoked to appear before it and show cause why his/her certificate should not be suspended or revoked.

Chapter 520. Plumbing

Cross References—As to adoption of the plumbing code, §500.040; as to duties of inspectors, ch.505.

Article I. In General

Section 520.010. Compliance With Plumbing Code.

A. *Violations.* It shall be unlawful for any person to fail, neglect or refuse to comply with any provision of the International Plumbing Code, adopted in Section 500.040, or the City Plumbing Code. In the event of conflict between Codes, the City Plumbing Code shall assume precedence.

B. *Notice.* The Plumbing Inspector shall serve a notice of violation or order on the person responsible for the plumbing, alteration, repair or removal of any plumbing work in violation of the provisions of this Article or in violation of a detailed statement or a plan approved thereunder, or a violation of a permit or certificate issued under the provisions of this Article; and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

C. *Prosecution.* If the notice of violation is not complied with promptly, the Plumbing Inspector shall request the attorney for the City to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of this Article or of the order or direction made pursuant thereto.

D. *Violation Penalties.* Any person who shall violate a provision of this Article or who shall fail to comply with any of the requirements thereof or who shall alter, repair or remove any plumbing work in violation of an approved plan or directive of the Plumbing Inspector or of a permit or certificate issued under the provisions of this Code shall be guilty of a violation of the Plumbing Code punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

E. *Abatement.* The imposition of the penalties prescribed in this Section shall not preclude the attorney for the City from instituting appropriate action to prevent unlawful plumbing work, or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or use of a building or structure in or about any premise.

Article II. Plumbing Inspector

Section 520.020. Plumbing Inspector.

There is hereby created the office of Plumbing Inspector and such assistant Plumbing Inspectors and other personnel as may from time to time be authorized by the City Council. The Plumbing Inspector shall be appointed by the Mayor with the approval of the City Council. In the absence of an appointed Plumbing Inspector, the City Building Inspector shall perform the duties of the Plumbing Inspector.

Section 520.030. Powers and Duties — Delegation of Authority.

A. The Plumbing Inspector shall be responsible for the administration and enforcement of this Article, including the provisions of the Plumbing Code adopted by this Article, and he/she shall

perform such other and related duties as may from time to time be required by him/her, by his/her duly authorized assistant or agent.

B. The Plumbing Inspector is hereby authorized and directed to regulate, inspect and determine that materials and workmanship regulated by the Plumbing Code do in fact conform to said Code.

C. The Plumbing Inspector shall cause the immediate correction or removal of any non-conformity or defective plumbing.

D. The Plumbing Inspector shall submit a monthly report of his/her activities to the Building, Plumbing and Electrical Committee of the City Council.

Section 520.040. Right To Enter Upon Private Property.

The Plumbing Inspector or other competent person designated by him/her as his/her agent shall have the right to enter into any building, manhole or subway in the discharge of his/her official duties or for the purpose of making tests of the plumbing apparatus or appliances therein contained; and for that purpose he/she shall be given prompt access to all buildings, public and private, and to all manholes and subways on application to the company or individual owning or having charge or control thereof.

Section 520.050. Compensation.

The Plumbing Inspector shall receive a salary as established by the City Council. In addition, the Plumbing Inspector or his/her assistant shall have use of a City-owned vehicle solely for the purpose of making all the necessary plumbing inspections. The assistant Plumbing Inspector shall receive no compensation from the City, but the Plumbing Inspector shall be responsible for compensating the assistant Plumbing Inspector for all work done by him/her.

Article III. Permits, Inspections, Certificates of Work

Section 520.060. Permit Required.

A. No person shall perform plumbing work of any kind, lay any drain, sewer pipe or water line in the City without first securing a permit therefor from the City Collector.

B. No permit shall be issued until an application is filed in writing with the City Collector and until fees have been paid. Application shall be made on forms provided by the city and shall be completed in such a manner as to advise him/her fully of the nature and extent of the proposed work. Such application shall include the following:

1. Location at which the work is to be done;
2. Name and address of the property owner;
3. Name and address of the person or firm in charge of the work;
4. Description of the work to be done;
5. Estimated date of completion of work.

C. The application shall be, at the discretion of the Plumbing Inspector, accompanied by such plans, specification or information as may be necessary to determine whether the installation as described will be in conformity with the requirements of this Article. If it shall be found that the installation as described will in general conform with the requirements of this Article, a permit for

such installation shall be issued, provided however, that the issuance of the permits shall not be taken as permission to violate any of the requirements of this Article.

D. All permits for plumbing work shall expire one (1) year from the date of issue.

E. Before any permit is granted for the installation or alteration of plumbing:

1. The person shall make application for such permit and shall pay to the City Collector an initial fee of forty dollars ($40.00) per trip for residential, except for those that have permits. Any re-inspection shall be an additional fee of fifty dollars ($50.00).

2. Any type of plumbing inspection for commercial or industrial applications shall be sixty dollars ($60.00) per trip, except for those that have permits. Any re-inspection shall be an additional fee of eighty dollars ($80.00).

Section 520.070. Inspection and Certification of Work — General.

A. Upon the completion of the work authorized by any permit, it shall be the duty of the person installing the same to make written request for inspection to the office of the City Collector who shall notify the Plumbing Inspector. The Plumbing Inspector shall inspect the installation within forty-eight (48) hours of written request, exclusive of Saturdays, Sundays and holidays, of the time such notice is given or as soon thereafter as possible and practicable. If it is found to be fully in compliance with the provisions of this Article, the Plumbing Inspector shall so endorse the applicant's copy and file copy of the issued permit. He/she shall issue to such person a final certificate of approval and, if necessary, a certificate of approval for delivery to the City authorizing connection to the City water and/or sewer service.

B. It shall be unlawful for any person to make connection to the City water or sewer service until such certificate of approval has been issued.

C. It shall be unlawful for any person to make connections to the City water or sewer service which has been disconnected or ordered to be disconnected by the Plumbing Inspector until a certificate of approval has been issued by him/her authorizing the reconnection and use thereof.

D. The Plumbing Inspector or his/her assistant, if any, shall be authorized to make inspections.

Article IV. Plumbers

Section 520.080. License Required.

A. Except as otherwise provided in this Section, no person shall do plumbing work of any kind, lay any drain or agree to do any plumbing or drain laying jobs, either by contract, on a time-and-wage basis, or by employment of some other person who is not a duly licensed plumber to do the work, or assume to direct or supervise any plumbing or drainage work in the City unless he/she shall then hold an unrevoked plumber's license issued to him/her by the City, as provided in this Chapter.

B. A person who is not a licensed plumber but who is employed by a plumber who is licensed, as provided in this Article, may do plumbing work for such licensed plumber if such work is done by him/her under the continuous and immediate supervision of such licensed plumber. Such employee shall comply at all times with all provisions of this Article other than for the one requiring plumbing workers to have licenses.

C. A plumber who is a full-time wage earner or salaried employee of an industrial plant in this City, who does plumbing work only for his/her employer and in his/her plumbing work no health hazards are involved, shall not be required to have a plumber's license, but he/she shall comply at all times with the provisions of this Chapter in all other respects.

D. The owner of a property may himself/herself install plumbing to serve such property if the plumbing does not and will not serve a dwelling and if he/she has obtained the required permit for such work; or if the plumbing to be installed or repaired does or will serve a dwelling, he/she may do the work himself/herself if all the following facts and conditions then exist:

1. The owner is to do all the work himself/herself without the help of any person other than a duly licensed plumber;

2. The dwelling is a single-family dwelling;

3. The owner is not building such dwelling, or having it built, for sale;

4. The dwelling is not to be sold for a least one (1) year after the completion of the plumbing work;

5. The owner has applied for a permit to do such plumbing work; and

6. The owner, in doing the work, will comply with all applicable requirements of this Article and, in particular, will duly submit his/her work for inspection by the City Plumbing Inspector.

Section 520.090. Procedure.

A. Every person desiring to obtain a plumber's license such as is required by this Chapter to engage in plumbing work in this City shall make application to the City according to the following procedure:

1. Present to the City Collector an application, upon a form prescribed and approved by the City, for a plumber's license.

2. Tender to the City Collector, with his/her application, the license fee in the amount of thirty-five dollars ($35.00).

3. In conjunction with his/her application, and before the application shall be acted upon, submit to the City Collector proof of his/her having obtained comprehensive general contractor's bodily injury liability insurance providing for a limit of not less than one hundred thousand dollars ($100,000.00) for all damages arising out of bodily injuries to or death of one (1) person and subject to that limit for each person, a total limit of three hundred thousand dollars ($300,000.00) for all damages arising out of bodily injuries to or death of two (2) or more persons in any one (1) accident, and comprehensive general contractor's property damage liability insurance providing for a limit of not less than fifty thousand dollars ($50,000.00) for all damages arising out of injury to or destruction of property in any one (1) accident and subject to that limit per accident, a total or aggregate limit of three hundred thousand dollars ($300,000.00) for all damages arising out of injury to or destruction of property during the policy period. This insurance must cover below-grade damage and be in full force during the entire construction process and further be with a company approved by the City; and the insurance shall cover the licensee and all employees of the licensee who may perform work within the City under the provisions of this Chapter.

4. Each plumber shall file a certificate showing that he/she has Worker's Compensation insurance if, under the laws of the State, he/she is required to carry such insurance.

Section 520.100. Issuance of License.

Upon compliance with the provisions of Section 520.090 by an application for a plumber's license, the City Collector shall issue to such applicant a written license and shall authorize him/her, when the required insurance shall have been obtained, to do plumbing work within the City.

Section 520.110. Expiration of License.

Each plumber's license required by this Article shall expire one year from the date of issue, except that if a person holding an unexpired and unrevoked plumber's license issued by the City Collector should apply, before the end of such year and in the manner required by Section 520.090, for a plumber's license for the following year, the City Collector shall issue such license and show thereon that it is for such following year. No plumber's license shall be issued except upon the applicant's complying with the requirements of Section 520.090 regardless of when the application therefore shall be made.

Section 520.120. Annual License Fee.

Every person who is or who shall be doing plumbing work in this City and who is required by this Article to have a plumber's license issued by the City Collector shall pay to the City an annual license fee in an amount of thirty-five dollars ($35.00).

Section 520.130. Merchant License Still Required.

Payment of the plumber's license fee assessed by this Article shall not relieve any merchant plumber from the payment of any license fee assessed by this Code or any other ordinance of this City against merchants. The term *"merchant plumber"* means any person who is or has been a plumber and who, in addition to doing plumbing work, sells fixtures, appliances or merchandise of any kind.

Section 520.140. License Not Transferable.

No person to whom a plumber's license has been issued for the City shall cause or permit the certificate to be used in any manner by another person, and no other person except the person to whom the license has been issued shall use the license in any manner.

Section 520.150. Suspension.

A. In the event that any holder of a plumber's license shall violate any of the terms or provisions of this Article, his/her certificate may be suspended or revoked by the Plumbing Board after notice to the holder of such electrician's license that the Plumbing Board has suspended or revoked the same. Such notice shall be in writing. There shall be sufficient service thereof if it shall be deposited in the United States mail directed to the last known address of the holder of the license required by this Chapter.

B. The holder of a plumber's license which has been suspended or revoked by the preceding Section shall be entitled to appeal to the City Council from the ruling of the Board, which appeal will be informally taken, but in any case, must be taken within ten (10) days after said suspension or revocation of such certificate by the Board. The City Council shall provide full opportunity for the person whose certificate has been suspended or revoked to appear before it and show cause why his/her certificate should not be suspended or revoked.

Chapter 525. Streets, Sidewalks and Other Public Places

Article I. In General

Section 525.010. Changing of Grade, Removal of Parts, Etc., Requires Consent of City Council.

No person shall change or alter the lawfully established grade of any street or sidewalk, or change the course of any surface water in any public street, or remove any part of any sidewalk or any paving in any of the streets of the City without obtaining the consent of the City Council.

Section 525.020. Permit Required To Store Building Materials On Streets and Sidewalks — Violation of Section Constitutes Nuisance.

Any person desiring to use any street or sidewalk for the purpose of storing material with which to construct any building shall obtain permission from the Street Department for the use thereof for such purpose and shall remove all obstructions as set forth below. Anyone failing to comply with the provisions of this Section shall be considered and adjudged guilty of maintaining a nuisance.

Section 525.030. Damages and Obstructions — Damaging Prohibited — Permitted Obstructions — Removal of Obstructions.

A. No person shall cause damage to or obstruct any public sidewalk or street, or any part thereof or connection therewith, in any manner whatsoever so as to prevent the full and free use thereof by the public, provided that it shall not be a violation of this Section for merchants to use any street or sidewalk, temporarily, in the necessary reception and discharge of merchandise, nor for persons engaging in building to deposit material thereon in front of or on the side of the lot where such building is being erected or renovated; but in no event shall building materials be deposited on any street or sidewalk, as herein provided, so as to take up or prevent the free use of more than half (½) of the width of such sidewalk or street.

B. Any person who shall use, or cause to be used, any part of any street or sidewalk in the City for piling of material while constructing, removing, repairing or reconstructing any building shall, within three (3) days after completing his/her work, remove all such material, or remnants thereof, so as to leave such street or sidewalk clear and in as good and safe condition as found.

Section 525.040. Damages and Obstructions — As Constituting Nuisances.

It shall constitute a nuisance for any person to encumber any public street or sidewalk within this City by placing thereon wood, barrels, boxes, crates, lumber, goods, wares or merchandise or any other articles; but this Section shall not apply to merchants occupying and using such sidewalks or streets for the purpose of receiving and discharging any articles in the course of regular business unless such articles are permitted to remain for more than three (3) hours on such street or sidewalk.

Section 525.050. Obstructions To Be Safeguarded.

No person shall place an obstruction on any street or sidewalk without taking whatever precautions may be necessary to prevent injury to persons or damage to property and to give adequate warning to the public at all times of the danger arising from such obstruction.

Section 525.060. Obstructions — Display By Merchants.

A strip on the inside of a sidewalk in front of and next to a building, when such strip is of a width of not more than thirty (30) inches and is bounded at the ends and at the outside, may be used by a merchant for the purpose of displaying his/her wares.

Section 525.070. Tampering, Etc., With Danger Signals Prohibited.

No person shall, without proper authority, tamper with, remove, break or extinguish any lantern, flare or other danger signal which has been placed on any street or sidewalk or portion thereof for the purpose of guarding against accidents.

Section 525.080. Guarding of Street Entrances To Underground Places — Penalties.

A. No outside court, cellarway, stairway, opening or entrance from any street or alley in this City descending to any cellar, basement or underground story or room of any building or other structure, or to any open space or lot, or to any court, coal or wood room, storeroom, vault or water closet shall be built, constructed, kept, maintained or permitted unless the same shall be carefully and securely guarded by a good, sufficient and permanent railing at least three (3) feet high all around the same, except the front entrance thereof, which shall be provided with a good and sufficient hinge or spring bar, gate or door to be kept closed during the darkness of night to protect the traveling public and prevent accidents.

B. Every person who shall build, construct, maintain or permit any outside court, cellarway, stairway, opening or entrance descending from any street or alley in this City to any cellar, basement or underground story or room of any building or other structure, or to any coal or wood room, storeroom, vault or water closet owned or controlled by him/her, or to any lot or open space without the railing and hinge or spring bar, gate or door required by this Section, or who, owning or controlling the same, shall suffer or permit any such hinge or spring bar, gate or door to remain open and not securely closed during all the darkness of night shall be liable for all damages to the City or to any person injured thereby and shall be subject to prosecution for a violation of this Section; and the nuisance created by such violation shall be subject to abatement.

Section 525.090. Stairways, Cellar Excavations, Etc., Not To Obstruct Sidewalks.

No person shall erect or cause to be erected any stairway on the outside of any buildings in such a manner as to occupy any part of or overhang, obstruct or interfere with the free use of any public sidewalk or part thereof; nor shall any person so construct or excavate for any areaway, cellarway or stairway leading to any cellar or basement, or other place; or lay or cause to be laid any door step extending into, taking up, or interfering with the free and entire use of any part of any public sidewalk.

Section 525.100. Water Flow — Across Sidewalks.

No person shall construct or maintain across any sidewalk a depression for the carrying off of water.

Section 525.110. Water Flow — Downspouts Regulated.

No person owning or controlling any building or premises shall construct or maintain a downspout in such manner as to cause the water emitted therefrom to flow onto or across any sidewalk.

Section 525.120. Property Owners, Etc., To Keep Sidewalks Clear of Snow, Sleet, Mud and Water.

It shall be the duty of all persons owning, occupying, or in any manner having the charge, care or control of any lot, tract or parcel of ground within the City, including vacant lots, tracts and parcels, and abutting upon which there is any sidewalk, to clean from such sidewalk all snow or sleet falling thereon or icy accumulations forming thereon and to keep the sidewalk free thereof; and no such person shall allow snow to remain upon any sidewalk in front of such property to a greater depth than two (2) inches for ten (10) hours after the snow has fallen thereon; nor shall any person permit or allow any water or mud to remain upon the sidewalk in front of or adjacent to any premises owned, occupied or controlled by him/her.

Article II. Excavations

Section 525.130. Permit — Required — Exception.

No person, company or utility shall make or cause to be made any excavations or cuts in any public street, sidewalk or other public place without first obtaining a written permit from the city to perform said excavation or cut, except any public work done under the authority of the City Council. Permit applications, City excavation policies, rules and regulations governing all excavation work and restoration of the street, sidewalk or other public place shall be available at the city offices.

Section 525.140. Permit — Deposit Prerequisite To Issuance — Deposit Fee Schedule.

The permit required by the preceding Section shall not be issued by the city until such time as Public Works has determined the dimensions and measurements of the proposed trench, cut and excavation to be made, and such permit shall not be issued until such time as the applicant deposits with the City such sums as shall be determined and required in accordance with the following excavation fee schedule:

Description	Price
Street repair, per square foot	$7.85
1½ inch cold mix asphalt temporary patch, per square foot	$4.20
2-inch asphalt repair, per square foot	$7.50
Asphalt and concrete, per square foot	$12.00
6-inch gravel driveway restoration, per square foot	$4.20
4-inch sidewalk repair, per square foot	$7.00
curbing, per square foot	$21.00
ADA ramp, per square foot	$15.00
Equipment, per hour	$75.00
Labor (minimum of 1 hour), per hour, per person	$42.00

Section 525.150. Restoration of Streets, Etc., By City If Permittee Fails To Do So — Recovery of Costs From Deposit, Etc.

In the event that a street or sidewalk is not restored to its original condition, as determined by the inspection of the Public Works Director, within a period of thirty (30) days from and after the date when such excavation shall have begun, then such street or sidewalk shall be restored to its original condition by the City and the costs and expenses to which the City may be put, on account of such or any violation of the conditions or regulations under which the work is done, shall be paid from the deposit made with the City Treasurer, and if after deduction of all payments for restoration expense there be any remainder, it shall be returned to the person who made the deposit.

Section 525.160. Fencing Excavations — Placing Lights, Etc., On Obstructions.

Every person who shall make any excavation in or adjoining any public street, sidewalk or public place shall cause it to be fenced in with a substantial fence not less than three (3) feet high and so placed as to prevent persons, animals or vehicles from falling into such excavations. Every person making any such excavation and every person who shall occupy any portion of any public place with building materials or any obstruction shall cause one (1) red light to be securely and conspicuously posted on or near such excavation, building material or obstruction, provided that such obstruction does not extend more than ten (10) feet in length, and if over ten (10) feet and less than fifty (50) feet, two (2) red lights, one (1) at each end, and one (1) additional light for each additional fifty (50) feet or part thereof and shall keep such lights burning during the entire night.

Section 525.170. Closing Streets, Etc., Temporarily For Repair Work.

The Public Works Director is authorized, with the approval of the City Council, to close any street, sidewalk, or public place and withdraw the same from public use temporarily and during such period as work thereon shall make such action necessary. No person shall use or attempt to use such street, sidewalk, public place or highway withdrawn from public use or drive or attempt to drive any animal or vehicle thereon.

Section 525.180. Manner of Performing Work — Generally.

In excavating in any street, sidewalk or other public way, all material for paving or macadamizing shall be removed with the least possible injury thereof, and together with the materials excavated from the trenches shall be placed where they will cause the least possible inconvenience to the public. The width of the excavation shall be no greater than is necessary for doing the work and whenever it shall be deemed necessary by the Public Works Director, sheeting and bracing shall be used to keep the sides of the trenches perpendicular and prevent unnecessary caving. The street must be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutters, and every precaution must be taken to protect the trench so as to ensure the public safety.

Section 525.190. Manner of Performing Work — Length of Excavation Limited — Exception.

No excavation shall be made in any public street, sidewalk or highway more than two (2) blocks in length at any one time except by special permit from the Public Works Director.

Section 525.200. Temporary Driveways.

In all cases where an excavation is made entirely across the public highway, a substantial driveway shall be maintained by the party making the excavation across such highway until such excavation is refilled, and at all times such driveway shall be subject to the approval of the Public Works Director.

Section 525.210. Duty To Protect Public, Etc.

No person shall make an excavation in any street, sidewalk or thoroughfare without protecting such excavation so as to prevent persons, animals or vehicles from falling into such excavation.

Article III. Sidewalk, Curb and Gutter Improvements Under Private Contracts

Section 525.220. When, By Whom and To Whom Permits Issued — Work To Conform To City Specifications — City Supervision of Work.

Whenever any persons desire to build their own sidewalks, or curbs and gutters, or to have them constructed by private contract at a time before the City Council shall have taken any action toward having such work done by public contract, they shall first obtain from the City Clerk a permit to do so, and such sidewalks or curbs and gutters shall be constructed in accordance with specifications prescribed and adopted by the City Council and under the supervision of the Public Works Director, provided that after the City Council shall have instructed the Public Works Director to file an estimate on cost of contraction of sidewalks or curbs and gutters along a portion of any street in this City. Any person owning property along or in front of which such work is contemplated to be done may only apply for and be granted a permit at any time previous to five (5) days before the date specified for such estimate to be filed, and no permit shall be granted thereafter.

Article IV. Street Numbers For Buildings

Section 525.230. Street Numbers Required.

All buildings fronting on the public streets of the City shall be numbered in accordance with the provisions of this Article.

Section 525.240. Sides of Streets For Odd and Even Numbers.

Odd numbers shall apply to, and be placed and maintained upon, all buildings located and fronting on the south and east sides of the public streets, and even numbers to all buildings located and fronting on the north and west sides of the streets.

Section 525.250. Numbering To Start — At Main On Streets Running North and South.

On streets running in a north and south direction, the numbers shall commence at Main Street with the number one (1) on the east side and the number two (2) on the west side of each street, such numbers to appear on each street and both to north and south of Main and continue for one (1) block in such order. In the second (2nd) block, the numbers shall begin with one hundred (100) and one hundred one (101) respectively, and for each block thereafter the original number shall be increased by one hundred (100). The numbering in this manner shall continue to the City limits in each direction.

Section 525.260. Numbering To Start — At Tennessee Street On Streets Running East and West.

On streets running east and west in the City, the numbering shall commence at Tennessee Street with the number one (1) on the south side and the number two (2) on the north side of each street and shall continue to be numbered in the same manner as provided for north and south streets.

Section 525.270. Numbering To Start — On Streets Not Crossing Tennessee or Main.

In all cases where streets do not cross Tennessee or Main Street, the numbering of each building fronting on such street shall be the same as it would, in that location, be if the street were continuous across the City.

On streets running in a north and south direction, in the southern portion of the city commonly known as Johnstown, the numbers shall commence at 1st Street with the number one (1) on the east side and the number two (2) on the west side of each street, such numbers to appear on each street south of 1st and continue for one (1) block in such order.

On streets running east and west in the City, in the southern portion of the city commonly known as Johnstown, the numbering shall commence at Walnut Street with a designation of the 1100 block with the number one (1) on the south side and the number two (2) on the north side of each street and shall continue to be numbered in the same manner as provided for north and south streets.

Section 525.280. "North", "South", "East" and "West" Street Designations.

For the purpose of distinguishing numbers from similar ones on the opposite side of the City, each street that extends across the City, or is represented on both sides of Main, shall have the prefix "North" for such portions of the street as may lie north of Main, and such portions of the street as may lie south of Main shall have the prefix "South"; and for streets running east and west and extending across the City, or being represented on both sides of Tennessee Street, the portions lying east of Tennessee Street shall have the prefix "East" and those west of Tennessee Street shall have the prefix "West".

Section 525.290. Allocation of Numbers Based On Linear Feet of Lot Frontage On Street.

In assigning numbers for buildings, a number shall be allowed for approximately each twelve and one-half (12½) feet on each side of the street in all portions of streets within the business district, as shown on the Zoning District Map on file in the City Clerk's office, provided that a variation of five (5) feet or less may be made, in either direction, from the basis, where it is necessary in adjusting the system to lots of irregular width or where sides of lots abut upon a street, and provided further, that it shall be proper to assign one (1) number to any single lot having a frontage of less than twenty-five (25) feet but not less than ten (10) feet.

Section 525.300. City Plat Book — Duty of Public Works Director To Assign Numbers.

It shall be the duty of the Public Works Director to prepare a plat book showing the streets and lots of the City and showing each house number assigned along each street, and where adjustments of the number system are necessary on account of the irregularity of streets or because of a lack of uniformity of blocks, the Public Works Director may adjust such irregularities in the most practicable manner, being particular to keep blocks of the City having the same number in hundreds practically east and west or north and south of each other so as to keep the numbering system of the City practically symmetrical according to the spirit and intent of this Article. Such plat book, when completed and approved by the City Council, shall be filed with the City Clerk and become a part of

this Article. The City may utilize the Jasper County GIS mapping or mapping systems contracted by the city in place of a plat book so long as the accuracy is periodically verified.

Section 525.310. Assignment By Public Works Director of Numbers in New Additions — Plats of Numbers in New Additions.

Whenever any addition to the City has been adopted by the City Council, the Public Works Director shall, without delay, prepare and submit a number plat of such addition, assigning proper numbers for all houses which may front on any of the streets included in such addition, making the numbers to conform systematically with the system of house numbering in the rest of the City, and in conformity with this Article and shall be filed with the City Clerk and become a part of this Article in like manner as to original plat provided for herein. Such plat shall be used in assigning numbers for all buildings then existing, or thereafter built, in such addition.

Section 525.320. City Clerk To Provide Numbers To Owners, Tenants, Etc., Upon Application.

It shall be the duty of the City Clerk to provide the number designated by the City plat book of house numbers to any building in the City upon application for such number by the owner or occupant of any building or his/her agent or representative.

Section 525.330. Duty To Affix Numbers To Buildings — Specifications For Numbers.

It is hereby made the duty of the owner or occupant of each dwelling or business fronting on any public street in the City to place and maintain the proper number on such building according to the provisions of this Article. Such number shall be made of some durable substance if attached to a building or of durable paint if painted on doors, windows or transoms. In all cases, such number shall not be less than three (3) inches in size from top to bottom and shall so be placed and maintained as to be easily discernible from the street on which such building fronts.

Section 525.340. Notice To Owners and Occupants of Unnumbered Buildings — Required Compliance Therewith.

It shall be the duty of the City Code Enforcement Officer, when he/she has knowledge or information that any building in the City is not numbered in accordance with the requirements of this Article or when ordered to do so by the City Council, to notify the owner or the occupant of such building forthwith to install the proper number on such building, and any person so notified who shall fail to install the proper number upon such building within ten (10) days of the receipt of such notice shall be deemed guilty of an offense against this Section.

Section 525.350. Damaging, Etc., House Numbers and Placement of Wrong Numbers Prohibited.

It shall be unlawful for any person to remove, damage, deface or mutilate any house number installed under the provisions of this Article or to place upon any building in the City a different number from the one as provided by this Article.

Section 525.360. Duty of Builders To Affix Numbers To Buildings.

It shall be the duty of any person erecting or constructing any building within the City to procure from the City Clerk the correct number for such building, and as soon as such building is completed to provide it with the number designated by the City Clerk.

Article V. Rights-of-Way Management

Section 525.400. Applicability; Preemption.

1. *Applicability.* Except as provided for herein and where limited by applicable law, this chapter shall apply to all excavations and use, construction, operation, and maintenance of facilities or structures, in the ROW of the city. No person shall commence or continue with the operation of any facilities or structures in the ROW except as provided and in compliance with this chapter. Because numerous types of users and uses of the ROW may be subject to various or changing regulatory schemes under federal or state law, any such limitation or qualification that may be applicable to less than all users and uses of the ROW are not duplicated herein, but are nevertheless incorporated herein, whenever application is so required by law, including but not limited to applicable provisions of RSMo. Ch. 67 and other applicable state and federal law. This article shall supplement and establish additional requirements to the other provisions of this chapter.

2. *Preemption.* No provision of this chapter shall apply to any circumstance in which such application shall be unlawful under superseding federal or state law and furthermore, if any section, subsection, sentence, clause, phrase, or portion of this chapter is now or in the future superseded or preempted by state or federal law or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.

Section 525.405. Definitions.

For purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meanings set forth in this section, unless the context clearly indicates that another meaning is intended.

Abandoned facilities means any equipment materials, apparatuses, devices, or facilities that are:

1) Declared abandoned by the owner of such equipment or facilities, 2) no longer in active use for a period of six months or more, and the owner of such equipment or facilities fails to respond within 30 days to a written notice sent by the city, 3) the owner allows a franchise, agreement or license to expire and fails to cure within 30 days after notice, or 4) as otherwise may be defined by applicable law.

Antenna means any device that transmits and/or receives electromagnetic wireless radio waves or signals for voice, data or video communications purposes including, but not limited to, television, text, AM/FM radio, microwave, cellular telephone, communications service, or otherwise.

Applicant means any person who has applied for a ROW use agreement, franchise, license, ROW permit, or any permit or other authorization to install, maintain, repair or otherwise physically access facilities in the ROW.

City facilities means any facilities located in the ROW and owned by the city.

Communications service means the transmission via facilities, in whole or in part, of any writings, signs, signals, pictures, sounds or other forms of intelligence through wire, wireless, or other means, including, but not limited to, any telecommunications service, enhanced service, information service, or internet service, as such terms are now, or may in the future be, defined under applicable law, and including all instrumentalities, facilities, apparatus (communications facilities), and services (among other things, the receipt, forwarding, and delivery of telecommunications) incidental to such transmission or designed to directly or indirectly facilitate or accept such transmission and shall also include "video services" as

defined in RSMo. 67.2677. The term "communications service" does not include the rental of conduit or physical facilities.

Director means the director of public works or his/her designee.

Excavation, excavating, or *excavate* means any act by which earth, asphalt, concrete, sand, gravel, rock or any other material in or on the ground is cut into, dug, uncovered, removed, or otherwise displaced, by means of any tools, equipment or explosives, except as excluded by applicable law.

Excavation permit means a permit authorizing excavation for the construction or installation of facilities in the city's rights-of-way.

Facilities or *facility* means any equipment, installation, or structure located in the rights-of-way, including without limitation, cables, wires, lines, poles, towers, antenna, conduit facilities, vaults, pedestals, transmitters, meters, fiber, foundations, and any other equipment, infrastructure, structures or obstruction. Facilities shall not include mailboxes, lawful vehicular parking or use or lawful minor incidental uses such as driveway aprons, private utility connections or other incidental facilities which may be permitted by license issued by the director as provided herein.

Facilities maintenance or *maintenance* means the construction, installation, repair, upgrade, or other physical access to the facility in the ROW that does not involve excavation.

Facilities maintenance permit means a permit issued by the city for the ROW user to provide maintenance to its facilities or otherwise perform work in the ROW that does not involve excavation but requires physical access to the facilities in the ROW.

Franchise means a binding and accepted ordinance for certain ROW users to occupy the rights-of-way for the purpose of providing, transporting, or distributing electricity, gas, water, steam, lighting, energy, or sewer service to any person or area in the city's limits and boundaries.

License means the executed agreement between the city and a person to use and occupy the rights-of-way for the purpose of installing incidental temporary facilities within the rights-of-way or incidental uses such as ingress and egress facilities, lateral utility lines, or driveway aprons.

Linear foot means the length in feet of cable, wire, fiber, conduit or other linear facilities. Facilities that are physically connected, wrapped or lashed as a single cable, conduit or bundle of cables or conduit shall be considered a single facility for purposes of calculating each linear foot, provided that each conduit or bundle of conduit up to and including four inches in exterior diameter shall constitute a separate facility for calculating linear feet. Conduit having fiber optic or other cable or wire installed within it shall not be considered separate facilities but shall be considered part of the single "conduit" or bundle for purposes of calculating linear feet provided that such fiber optic or other cable or wire installed within a singular "conduit" can physically fit inside four inches of exterior diameter. Each ROW user shall be subject to a separate linear foot charge for facilities used by a ROW user and subject to this Code.

Person means any corporation, partnership, proprietorship, individual, organization, governmental entity or any natural person.

Permit means an excavation permit or a facilities maintenance permit.

Rights-of-way or *ROW* means the area on, below, or above a public roadway, highway, street or alleyway in which the city has an ownership interest or right of management and including such adjacent areas within such public ways within such city control, except as may be limited by law.

Rights-of-way use agreement or *ROW use agreement* means a document granting consent by the city to use the ROW for the purpose of providing communications service or for such other use for which a franchise or license is not applicable and obtained as provided for herein.

ROW user means all persons and entities, whether a PSC registered utility or otherwise, owning, controlling, leasing, maintaining, using or installing facilities in the rights-of-way of the city, not otherwise expressly exempted. To the extent permitted by law, ROW user shall not include the city.

Section 525.410. Rights-of-Way Use Agreement, License, or Franchise Required; Requirements.

1. *ROW use agreement, license, or franchise required.* Except where otherwise authorized or required by applicable law, no person may own, control, lease, use, or install facilities or other structures in the rights-of-way without a franchise, license, or ROW use agreement all subject to the requirements of this chapter and issued by the city as provided herein and as follows:

    a. *Franchise.* A franchise shall be obtained in conformance with all applicable franchise procedures for any ROW user seeking to use the rights-of-way for the purpose of providing, transporting or distributing electricity, gas, water, steam, lighting, energy, or sewer service to any person or area in the city's limits and boundaries.

    b. *ROW use agreement.* A ROW use agreement shall be required for all other ROW users, except as provided herein or otherwise required by law. A ROW use agreement shall conform to all applicable laws and requirements, including as provided herein, but shall not be subject to procedures applicable to franchises.

    c. *License for incidental uses.* Persons desiring to install an incidental use, which includes installation of temporary structures or minor incidental uses in the rights-of-way, such as driveway aprons, ingress or egress facilities, and similar incidental uses, that utilize a small area of the rights-of-way and serves the principal structure, may be permitted without a franchise or rights-of-way use agreement pursuant to a license issued by the director. The director shall have discretion to establish such application, requirements, and conditions applicable to such uses consistent with the purposes of this chapter or as otherwise established by law. The applicant shall be required to pay an application fee and an inspection fee as established by the city. Any person granted a license hereunder shall be subject to the applicable requirements of this chapter. Unless otherwise stated in the license, a license shall be for an indefinite term and shall be revocable at any time on written notice in the public interest by the city.

    d. *Lease required for public lands.* Unless otherwise provided, use or installation of any facilities in non-rights-of-way public property of the city shall be permitted only if a lease agreement or other separate written approval has been negotiated and approved by the city with such reasonable terms as the city may require.

    e. *Temporary license or construction permits.* Any ROW-user that has a license or permit for construction of facilities and is otherwise required to obtain a franchise or ROW agreement shall within 90 days of the date of the effective date of the ordinance from which this article derived: (1) seek and obtain a fully executed franchise or ROW agreement with the city and fully comply with the terms of such franchise or agreement, this Code and other applicable law; or (2) provide written evidence documenting a legal right to operate without such franchise or ROW agreement ("asserted preemption") and fully comply with the requirements of this chapter and other applicable law. Nothing in this paragraph shall waive

the city's right to challenge any asserted preemption nor shall such preemption be valid if not fully supported by applicable law.

2. *Grant and nature of approval.* The authority granted by the city in any ROW use agreement, license or franchise shall be for non-exclusive use of the rights-of-way. Such grant does not in any way limit the continuing authority of the city through the proper exercise of its statutory powers to adopt and enforce ordinances necessary to provide for the health, safety, and welfare of the public. The city specifically reserves the right to grant, at any time, such additional agreements or other rights to use the rights-of-way for any purpose and to any other person, including itself, as it deems appropriate, subject to all applicable laws. The granting of any ROW use agreement, license or franchise by the city shall not be deemed to create any property interest of any kind in favor of the ROW user nor shall it create any relationship of agency, partnership, joint venture, or employment between the parties. Licenses may be approved by the director on a non-discriminatory basis provided that the person is in compliance with all applicable requirements. Each franchise, license, and ROW use agreement shall include terms of use and be deemed to incorporate the terms of this chapter and other applicable laws of the city, except as may be expressly stated in such use agreement, license or franchise.

3. *Condition precedent to permit.* Unless otherwise required by applicable law, no permit may be issued unless or until such person has a valid franchise, license or rights-of-way use agreement with the city that authorizes that person's use of the rights-of-way. Unless prohibited by applicable law, in addition to any other reason provided herein, the director may deny a ROW permit to any person that does not have a valid franchise, ROW use agreement, or license with the city.

4. *Rights-of-way user fees.*

    a. *User fee.* Unless otherwise established by the city council or applicable law, each right-of-way user shall pay to the city as compensation for the use of the public way a user fee as follows:

        Linear foot fee: $1,000.00/month for the first mile of linear facilities, or part thereof, plus a monthly payment of $0.16 per linear foot for each additional linear foot of facilities located in the right-of-way, with the user fee being capped at $8,000.00/month for each user; and

    Provided that all right-of-way users shall be entitled to a credit against the user fee due hereunder equal to the payment(s) from such right-of-way user in accordance with RSMo. 67.1846; provided, however, such credit cannot exceed the amount due under this subsection and may not be carried forward or back to any other time period and a credit shall not apply to any taxes paid under protest or otherwise paid with qualification unless so required by law. User fees and rates provided in this chapter shall be in addition to any prior unpaid rate or obligation relating to such prior use, prior agreement or other obligation to the city, unless expressly released by written settlement with the city.

    b. *Rates for users without an agreement.* Any rights-of-[way] user who fails to hold and maintain a current and valid agreement with the city to use the city's ROW or other public land or facilities has no right to holdover, unless otherwise provided by law, and shall be subject to the provisions and city remedies of this chapter, in addition to all other remedies and penalties as may otherwise exist in applicable law. Because use of public property without an agreement imposes greater uncertainty, risk, and cost on the city and public, greater compensation for use without such agreement, even if occurring under a claim of a lawful exemption allowing such use, is a reasonable requirement to address such user status. Accordingly, where an agreement, lease, or other agreement for use of ROW or other public

land or facilities expires and is not renewed or replaced, or a person is using such land or facilities thereon otherwise without a valid current agreement authorizing such use, in addition to other requirements, remedies, and penalties, if applicable, such person for any period without a valid current agreement shall: (1) indemnify the city from any liability arising from the use; (2) pay any damages and costs of the city from such use, including but not limited to attorneys' fees incurred in enforcing this article; (3) otherwise fully comply with this chapter and other applicable law; and (4) make payment of compensation for each linear foot in the amount established herein for operation without an agreement ("non-agreement rate"). Unless otherwise established by the city council, the non-agreement rate for the user fee shall be $0.32/foot per month for each linear foot of facilities in the ROW or other public lands, with the user fee being capped at $16,000.00/month for each user. Unless otherwise provided in an unexpired agreement, such person shall also be responsible for interest on all amounts owed and at a rate of one and one-half percent per month. Nothing in these provisions, remedies, or compensation requirements, or acceptance or enforcement thereof by the city, shall be deemed to accept or authorize any use of public property without a required agreement, or after the expiration of such agreement, or otherwise in violation of applicable requirements.

c. *Bundled services.* The right-of-way user expressly acknowledges and agrees that to the extent it markets bundled services, including combination of goods or services, it will fairly reflect to the city an appropriate and reasonable division of services among the various services offered based on the actual value of each separate service. Whether or not the right-of-way user separates services on a subscriber's bill, it will provide to the city notice of any such allocation sufficient for city verification. Should the right-of-way user engage in billing or payment practices that, in the reasonable determination of the city, do not fairly reflect a fair and appropriate allocation, the city may nullify such allocation and require payment applicable to the full receipts.

d. *Timing of payment of user fees.* Unless otherwise agreed to in writing, all user fees shall be due and payable every month of each calendar year within 30 days after the end each such month. A credit of the applicable gross receipts tax for that same period may be taken against the linear foot payment for that month.

e. *Interest of late payments and under payments.* If any user fee, or any portion thereof, is not postmarked or delivered on or before the due date, interest on the payment and interest on the unpaid balance shall accrue from the due date until received, at the rate of one and one-half percent per month, of the total amount past due, unless such other maximum rate is established by law, or at such other lower rate as may be required by applicable law.

f. *Fee statement; retroactive adjustments.* Each user fee payment shall be accompanied by a statement, certified as true, showing the manner in which the user fee was calculated including the total number of feet of right-of-way occupied by the right-of-way user's facilities, the per foot linear foot rate applied, any credit or adjustment taken (including setting forth the prior month's gross revenue and describing what revenues or receipts were included and excluded in the user fee paid), and the payment of the user fee made. If any fee statement is determined to understate the fee owed, then such additional amount owed shall be made with a corrected statement, including interest on said amount as provided herein. No refund, credit or offset shall be granted for any claimed payment or overstatement of the

amount due or certification of facilities reported, provided that a corrected payment or reported may be filed within the time for the original time for payment.

g. *No accord and satisfaction.* No acceptance by the city of any user fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any user fee payment be construed as a release of any claim of the city.

h. *Maintain records.* Right-of-way users shall at all times maintain complete and accurate books of account and records of the business, ownership, and operations of the right-of-way user with respect to the facilities in a manner that allows the city to determine whether the right-of-way user has properly calculated its user fee in compliance with this section. Should the city reasonably determine that the records are not being maintained in such manner, the right-of-way user shall correct the manner in which the books and/or records are maintained so that the right-of-way user comes into compliance with this section. All financial books and records which are maintained in accordance with FCC regulations and the regulations of any governmental entity that regulates utilities in Missouri, and generally accepted accounting principles shall be deemed to be acceptable under this section. Such books and records shall be maintained for a period of at least three years.

i. *Right of inspection.* The city or its designated representatives shall have the right to inspect, examine, or audit, during normal business hours and upon seven calendar days' notice, all documents, records, or other information that pertains to the facilities within the right-of-way and/or right-of-way user's user fee obligations. In addition to access to the records of right-of-way user for audits, upon request, right-of-way user shall provide reasonable access to records necessary to verify compliance with the terms of this section.

j. *Fees and compensation not a tax.* The fees and costs provided for in this section, and any compensation charged and paid for the use of the right-of-way as provided for in this section, are separate from, and additional to, any and all federal, state, city or other local taxes as may be levied, imposed, or due.

5. *Transferability.* Except as provided in this article or as otherwise required by law, no franchise, ROW use agreement, or permit may be transferred or assigned without the written application to and consent of the city based on the requirements and policies of this chapter. The city shall not unreasonably withhold its consent as provided herein, but any costs incurred shall be paid by the ROW user to the extent not prohibited by applicable law. In the case of the city granting consent to transfer, the transferee shall be subject to the terms and conditions of this chapter.

6. *Use of city or third-party facilities.* No ROW use agreement, franchise, or license shall grant the right to use facilities owned or controlled by the city or a third-party, and except to the extent permitted by applicable law, no such use shall occur, nor shall any franchise, ROW use agreement, or license excuse such person from first obtaining a pole attachment agreement or other express consent for such right or use before locating on the facilities controlled or owned by the city or a third-party.

7. *No warranties.* The city makes no express or implied representation or warranty regarding its rights to authorize the installation or construction of facilities on any particular segment of rights-of-ways and shall not be liable for any damages therefrom. The burden and responsibility for making all such determinations in advance of construction or installation shall be entirely upon the ROW user. The ROW user shall be solely liable for any damages to facilities or other property due to excavation, facilities maintenance, or other work performed prior to obtaining the location of all

facilities that have been properly identified prior to such work or around. The ROW user shall not make or attempt to make repairs, relocation or replacement of damaged or disturbed facilities without the approval of the owner of the facilities.

8. *Forfeiture of agreement and privilege.* In case of failure on the part of the ROW user, including its successors and assigns, to comply with any of the provisions of this chapter or a ROW use agreement, franchise, or license, or if the ROW user, its successors and assigns should do or cause to be done any act or thing prohibited by or in violation of this chapter or the terms of the authorization of such use, or otherwise loses authority to provide its service in the city, the ROW user, its successors and assigns shall forfeit all rights and privileges permitted by any ROW use agreement, franchise, or license, and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the city shall carry out the following proceedings: Before the city declares the forfeiture or revocation of a rights-of-way use agreement, franchise, or license, it shall first serve a written notice upon the person setting forth in detail the neglect or failure complained of, and the person shall have 30 days thereafter, or such other reasonable period established by the director, in which to cure the default by complying with the conditions of such ROW use agreement, franchise, or license and fully remedying any default or violation. If at the end of such period the city determines that the conditions have not been complied with and that the person did not reasonably and in the public interest require more than the establish time to cure the default, the city shall take action by an affirmative vote of the city council present at the meeting and voting to terminate the ROW use agreement, franchise, or license, setting out the grounds upon which said authorization is to be forfeited or revoked. Nothing herein shall prevent the city from invoking any other remedy or from declaring immediate forfeiture where the default is incapable of being cured by the ROW user, including where such defaults or violations have repeatedly occurred.

9. *No waiver.* No action or omission of the city shall operate as a future waiver of any rights of the city under this chapter. Except where rights are expressly granted or waived by a ROW permit, ROW use agreement, franchise, or license they are reserved, whether or not expressly enumerated.

10. *No cause of action against the city.* As a condition for use of the rights-of-way, a ROW user shall have no damages, remedy, or monetary recourse whatsoever against the city for any loss, cost, expense, or damage arising from any of the provisions or requirements of any ROW use agreement, franchise, or license, or because of the enforcement thereof by said city, or from the use of the rights-of-way. Nothing herein shall preclude the ROW user from seeking injunctive or declaratory judgment relief against the city where such relief is otherwise available, and the requirements therefor are otherwise satisfied.

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

Section 525.415. Application for Franchise or ROW Use Agreement Required.

1. *Application form.* An application for a franchise or ROW use agreement shall be provided to the city on city forms and shall include all such information as is required by this chapter and as determined necessary by the director. The ROW user shall be responsible for accurately maintaining the information in the application during the term of any franchise or ROW use agreement and shall be responsible for all costs incurred by the city due to the failure to provide or maintain as accurate any application information required herein.

2. *Application deposit fee.* An application deposit of $500.00, or such other amount determined to be required by the director, shall be submitted with the application, which shall be utilized to at least partly offset the city's costs in reviewing and issuing an agreement, and not to exceed an amount permitted by applicable law provided that no costs shall be included if such inclusion is prohibited by applicable law as to that person; any amount not used by the city for its actual lawfully reimbursable costs will be refunded upon request after execution of a ROW use agreement or franchise. If applicable, the applicant shall be obligated to reimburse the city for its reasonable expenses associated with the review, negotiation, and adoption of an appropriate ROW use agreement or franchise that may exceed the application deposit.

3. *Standard for approval or renewal.* In reviewing an application for a new or renewal ROW use agreement or franchise, the city may consider prior conduct of the person in performance of its obligations or compliance with the city's ordinances in the past, or the existence of any outstanding violations or deficiencies. The city may deny or condition any ROW use agreement or franchise where the proposed use would interfere with the public use of the rights-of-way or otherwise conflict with the legitimate public interests of the city to fulfill the requirements and objectives of this chapter or as otherwise provided by law. All ROW use agreements or franchises by ordinance or resolution of the city council and applications shall be decided on a non-discriminatory basis and shall be approved, conditioned or denied based on compliance with all applicable requirements herein, and conformance with applicable law and the public interest.

4. *Approval process.* After submission by the applicant of a duly executed and completed application, deposit fee, and executed franchise or rights-of-way use agreement as may be provided by the director or as modified by the director in review of the specific circumstances of the application, all in conformity with the requirements of this chapter and all applicable laws, the director shall submit such agreement to the city council for approval. Upon determining compliance with this chapter, the city council may authorize execution of the franchise or ROW use agreement (or a modified agreement otherwise acceptable to the city consistent with the purposes of this chapter) and such executed franchise or ROW use agreement shall constitute consent to use the rights-of-way; provided that nothing herein shall preclude the rejection or modification of any executed franchise or ROW use agreement submitted to the city to the extent applicable law does not prohibit such rejection or modification, including where necessary to reasonably and in a uniform or non-discriminatory manner reflect the distinct engineering, construction, operation, maintenance, public work, or safety requirements applicable to the person or use.

Section 525.420. Permit Required; Requirements.

1. *Excavation permit required.* Except as otherwise provided herein, no ROW user or other person shall perform excavation work in the ROW without an excavation permit. Any person desiring to excavate in the ROW shall first apply for an excavation permit, on an application form provided by the city, and submit the application fee and pay all applicable fees to obtain an excavation permit,

in addition to any other building permit, license, easement, or other authorization required by law, unless such excavation must be performed on an emergency basis as provided herein. The cost of said permit shall be set out by the director. The director is authorized to draft an application form consistent with the requirements of this chapter. An excavation permit should be obtained for each project unless otherwise provided for in this chapter. A separate special permit or lease shall be required for excavation in or use of any real property interest of the city that is not ROW. It shall be unlawful for any person to perform excavation work within the city at any time other than from 6:00 A.M. to 9:00 P.M., Monday through Friday without prior approval from the city, except in the case of an emergency. No work shall be performed during city holidays, except in the case of an emergency. All excavation permits shall expire after 60 days from the date of issuance, unless otherwise specified in the excavation permit. An applicant whose excavation permit application has been withdrawn, abandoned or denied for failure to comply with this chapter shall not be refunded the application fee.

2. *Facilities maintenance permit; exemptions.* No person shall perform facilities maintenance at a specified location in the rights-of-way without first obtaining a facilities maintenance permit from the director, except where such facilities maintenance is expressly authorized by an existing valid excavation permit for the applicable facilities maintenance location or is exempt herein. In addition to the applicable conditions and obligations set forth in this chapter, conditions of a facilities maintenance permit shall be as established in such permit and shall include requirements of notice to and approval by the city whenever traffic lanes are to be obstructed, manhole covers or safety barriers removed or altered, temporary or other barricades installed, and other events set forth in the facilities maintenance permit. All facilities maintenance permits shall expire after 60 days from the date of issuance, unless otherwise specified in such permit. A facilities maintenance permit shall not be required for:

    a. ROW users performing routine maintenance which does not require excavation, does not disrupt traffic or pedestrians, and requires no more than four hours to complete, provided that at minimum two hours' notice is provided to the city during normal business hours;

    b. Emergency situations as more fully described in subsection 4 below; or

    c. Contractors working on the construction or reconstruction of public improvements and which are operating pursuant to a contract with the city for such construction; or

    d. Routine maintenance on previously approved small wireless facilities, replacement of small wireless facilities that are the same or smaller in size, weight, and height, or installation placement, maintenance, operation, or replacement of micro wireless facilities that are strung on cables between utility poles in compliance with applicable safety and building codes, when such work will not involve excavation, affect traffic patterns, obstruct traffic in the ROW, or materially impede the use of a sidewalk, and provided the ROW user submits as-builts of the new small wireless facilities or micro wireless facilities so the city may maintain an accurate inventory of facilities installed in the ROW.

3. *Bulk permits.* The director shall have the authority to establish procedures for bulk processing of applications and periodic payment of fees.

4. *Emergencies.* In the event of an emergency requiring immediate attention to remedy defects, and in order to avoid loss of damage to person or property, it shall be sufficient that 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 business day thereafter, or as otherwise directed by the city. In the event the city becomes aware of an emergency requiring facilities work the city shall attempt to contact a representative of each ROW user affected, or potentially affected, by the emergency work. If no response is received by a particular ROW user to whom contact is attempted, the director may take whatever action he/she deems necessary to respond to the emergency, the cost of which shall be borne by the person whose action or inaction occasioned the emergency or by the ROW user if the emergency was occasioned by an act of nature.

5. *ROW permit specific conditions.* The director may also impose reasonable conditions upon the issuance of a permit and the performance of work in order to protect the public health, safety, and welfare, to ensure the structural integrity of the rights-of-way, to protect the property and safety of other users of the rights-of-way, and to minimize the disruption and inconvenience to the traveling public.

6. *Codes incorporated.* Every permit issued hereunder shall incorporate the requirements and terms of this chapter, agreements, and all applicable ordinances, to the extent permitted by law. The ROW user shall perform such work in accordance with the issued permit and applicable provisions of this chapter and any subsequent ordinances or regulations that may be adopted by the city regarding excavation or facilities maintenance work. In addition, all ROW users shall be subject to all technical specifications, design criteria, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the city in the reasonable exercise of its police power relating to permits and fees, sidewalk and pavement cuts, facility location, construction coordination, surface restoration, and other requirements on the use of the rights-of-way. A ROW user shall perform all excavations or facilities maintenance in full compliance with all applicable engineering codes adopted or approved by the city, and in accordance with applicable statutes of the State of Missouri, and the rules and regulations of the public service commission, federal communications commission, and any other local, state or federal agency having jurisdiction over the parties. The ROW user shall comply with the excavation requirements of Missouri One Call established by RSMo. 319.010 et seq., as amended. A ROW user shall be responsible for all excavations or facilities maintenance done in the rights-of-way on its behalf, regardless of by whom the excavation or facilities maintenance is done.

7. *Tree and landscape protection.* Upon ten days' written notice and with the supervision of the city or as otherwise provided by law or agreement, the city may permit a ROW user 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 facilities in the ROW, 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. Unless otherwise approved in writing by the city, a ROW user shall not remove, cut or damage any trees or their roots in the rights-of-way. In reviewing any permit application, the city may require the applicant to directionally bore around or otherwise avoid disturbance to any tree or landscaping, existing facility, or other protected area in the rights-of-way.

8. *Permit displayed.* At all times during the work, permits shall be conspicuously displayed at the work site and shall be available for inspection by the director.

9. *Modification requiring new permit.* If at any time it appears that the duration or scope of the work is or will become materially different from that allowed by the permit, the ROW user shall inform the director. The director may issue a waiver, an extension or revised permit, or require that the ROW user reapply for a permit in accordance with all requirements of this chapter.

(Ord. No. 2019-073, § 1(Exh. A), 5-6-19)

Section 525.425 Permit Denial.

1. The director may deny an application for a permit if:

    a. To the extent permitted by law, the person does not have a current franchise, license, or rights-of-way use agreement, or other authorization with the city.

    b. The ROW user, or any persons acting on the behalf of the ROW user, fails to provide all the necessary information requested by the city for managing the rights-of-way.

    c. The ROW user, or any persons acting on the behalf of the ROW user, including contractors or subcontractors, has a history of noncompliance or permitting noncompliance within the city. For purposes of this section, "history of noncompliance or permitting noncompliance within the city" shall include where the ROW user, or any persons acting on the behalf of the ROW user, including contractors or subcontractors, has failed to return the rights-of-way to its previous condition under a previous permit, or has violated terms, or is in violation of terms of the ROW users' franchise, rights-of-way use agreement, license, or other authorization with the city.

    d. The city has provided the ROW user with a reasonable, competitively neutral, and nondiscriminatory justification for requiring an alternative method for performing the excavation or facilities maintenance identified in the permit application, or a reasonable alternative route that will not result in additional installation expense of more than ten percent to the ROW user or a declination of service quality.

    e. Any other violations or noncompliance caused by or through the ROW user of any applicable city, state, or federal law or regulation, except where such violation is prohibited by applicable law for being a basis for denial.

Section 525.430. Permit Revocation.

The director may, after reasonable notice and an opportunity to cure, revoke a permit without fee refund, but only in the event of a substantial breach of the terms and material conditions of the permit. A substantial breach by a ROW user includes but is not limited to:

1. A material violation of a provision of the permit;

2. An evasion or attempt to evade any material provision of the permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;

3. A material misrepresentation of fact in the permit application;

4. A failure to complete work by the date specified in the permit, unless a permit extension is obtained, or unless the failure to complete the work is due to reasons beyond the ROW user's control;

5. A failure to correct, within the time specified by the city, work that does not conform to applicable national safety codes, industry construction standards, or local safety codes, upon inspection and notification by the city of the faulty condition; or

6. Such other lawful reasons.

Section 525.435. Relocation of Facilities.

1. *City required relocation.* The ROW user shall promptly remove, relocate, or adjust any facilities located in the rights-of-way as directed by the city when such is required by public necessity, or public convenience and security require it, or such other findings in the public interest that may require relocation, adjustment, or removal at the cost of the ROW user. Such removal, relocation, or adjustment shall be performed by the ROW user within the time frames established by the city and at the ROW user's sole expense without any expense to the city, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations, and schedules of the city pertaining to such.

2. *Emergency exception.* In the event of an emergency or where construction equipment or facilities create or are contributing to an imminent danger to health, safety, or property, the city may, to the extent allowed by law, remove, re-lay, or relocate such construction equipment or the pertinent parts of such facilities without charge to the city for such action or for restoration or repair. The city shall attempt to notify the person having facilities in the rights-of-way prior to taking such action, but the inability to do so shall not prevent same. Thereafter, the city shall notify the person having facilities in the rights-of-way as soon as practicable.

3. *Third-party relocation.* A person having facilities in the rights-of-way shall, on the reasonable request of any person, other than the city, holding a validly issued permit, after reasonable advance written notice, protect, support, or temporarily disconnect or relocate 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 in the rights-of-way taking such action may require such payment in advance.

4. *Abandonment exception.* Rather than relocate facilities as requested or directed, a ROW user may abandon the facilities if approved by the city as provided in subsection 7 of this section.

5. *ROW user responsible for damage.* Any damages suffered by the city, its agents or its contractors to the extent caused by the ROW user's failure to timely relocate, remove or adjust its facilities, or failure to properly relocate, remove, or adjust such facilities, shall be borne by the ROW user. Where the ROW user shall fail to relocate facilities as required by the city, the city may, but shall not be required to, upon notice to the ROW user remove the obstructing facilities with or without further delay and the ROW user shall bear all responsibility and liability for the consequences therefrom, and the city shall bear no responsibility to the ROW user or others for damage resulting from such removal.

6. *No vested rights.* No action hereunder shall be deemed a taking of property and no person shall be entitled to any compensation therefor. No location of any facilities in the rights-of-way shall be a vested interest or property right.

7. *Abandoned facilities; removal.* A person owning abandoned facilities in the rights-of-way must not later than 30 days of notice or of abandonment remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The director may upon written application and written approval allow underground facilities or portions thereof to remain in place if the director determines that it is in the best interest of public health, safety, and general welfare to do so. The city shall be entitled to all costs of removal and enforcement for any violation of this provision.

8. *Nuisance.* Facilities abandoned or otherwise left unused in violation of this chapter are deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, (a) abating the nuisance, (b) taking possession and ownership of the facility and restoring it to a useable function, or (c) requiring the removal of the facility by the ROW user.

Section 525.440. ROW User Responsibilities and Requirements.

1. *Compliance with laws.* Each ROW user shall comply with all applicable federal and state laws and regulations and rules as well as all city ordinances, resolutions, rules, and regulations heretofore and hereafter adopted or established.

2. *Zoning, safety, and building code compliance.* ROW users shall at all times be subject to the lawful exercise of the police powers of the city, including but not limited to all police powers regarding zoning, supervision of the restoration of the rights-of-way, building and safety regulations, and control of the rights-of-way currently in effect or as may be amended. Installation of all facilities in the rights-of-way are subject to and must be in compliance with all zoning and safety and building code requirements. For applications for installation of any facility in the rights-of-way, (1) the most restrictive adjacent underlying zoning district classification shall apply unless otherwise specifically zoned and designated on the official zoning district map, and (2) no application shall be submitted for approval without attaching the city's consent to use the rights-of-way for the specific construction application in accordance with RSMo. Ch. 67 and compliance with this chapter.

3. *Advertising, signs, or extraneous markings.* ROW users shall not place or cause to be placed any sort of signs, advertisements, or other extraneous markings, whether relating to the ROW user or any other person on the rights-of-way, except such necessary minimal markings as approved by the city as are reasonably 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.

4. *Responsible for subcontractors.* If excavation or facilities maintenance is being done for the ROW user by another person, a subcontractor or otherwise, the ROW user shall be responsible for ensuring that the excavation or facilities maintenance of said person is performed consistent with its permit and applicable law (including that the contractor shall be properly licensed under the State of Missouri and local ordinances) and shall be responsible for promptly correcting acts or omissions by said person.

5. *Insurance; exceptions.* Except as provided in this section, each ROW user shall provide, at its sole expense, and maintain during the term of any ROW use agreement or franchise or anytime the ROW user has facilities in the ROW, commercial general liability insurance with a reputable, qualified, and financially sound company licensed to do business in the State of Missouri, and unless otherwise approved by the city, with a rating by Best of not less than "A," that shall protect the ROW user, the city, and the city's officials, officers, and employees, from claims which may arise from such use of the ROW, whether such operations are by the ROW user, its officers, directors, employees, and agents, or any contractors or subcontractors of the ROW user. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from all ROW user operations, products, services, or use of automobiles or construction equipment. The amount of insurance for single limit coverage applying to bodily and personal injury and property damage shall be in no event less than the individual and combined sovereign immunity limits established by RSMo. 537.610 for political subdivisions; provided that nothing herein shall be deemed to waive the city's

sovereign immunity. An endorsement which states that the city as an additional insured with full and equivalent coverage as the insured under the insured's policy and stating that the policy shall not be cancelled or materially modified so as to be out of compliance with the requirements of this section, or not renewed without 30 days' advance written notice of such event being given to the director, along with copies of the policy and other documentation, shall be provided. If the person is self-insured, it shall provide the city proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts. The city's additional insured coverage shall have no deductible. The insurance requirements in this Section or otherwise shall not apply to a ROW user to the extent and for such period as the ROW user is exempted from such requirements pursuant to RSMo. 67.1830(6)(a) and has on file with the city clerk an affidavit certifying that ROW user has $25,000,000.00 in net assets and is otherwise therefore so exempted unless otherwise provided by a ROW use agreement or franchise or the city determines such exemption has not been adequately shown. Additionally, in accordance with RSMo. 67.5121(3), a self-insured ROW user shall not be required to obtain insurance naming the city as an additional insured solely to the extent such ROW user is utilizing "small wireless facilities" as defined in the Uniform Small Wireless Facility Deployment Act within the ROW. This exception to the city's insurance requirements shall only apply as related to "small wireless facilities" and shall not otherwise alter the obligations of a ROW user to provide appropriate insurance to the city for any other activities or operations. The city may waive any and all requirements under this subsection when deemed to be lawful and in the public interest.

6. *Performance and maintenance bonds.*

   a. *Bond required.* Prior to any 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 guarantee the restoration of the rights-of-way. The bond shall continue in full force and effect for a period of 48 months following completion of the work. The director may waive this requirement when the work involves, as determined in the sole discretion of the director, no or only minor disruption or damage to the rights-of-way. The bond requirements in this section or otherwise shall not apply to a ROW user to the extent and for such period as the ROW user is exempted from such requirements pursuant to RSMo. 67.1830(6)(a) and has on file with the city clerk an affidavit certifying that ROW user has $25,000,000.00 in net assets and is otherwise therefore so exempted, unless otherwise provided by a ROW use agreement or franchise or the city determines such exemption has not been adequately shown. The city may waive any and all requirements under this subsection for good cause when deemed to be lawful and in the public interest.

   b. *Failure to satisfactorily complete restoration.* If a ROW user fails to complete the work in a safe, timely, and competent manner or if the completed restorative work fails without remediation within the time period for the bond (as determined by the director), then after notice and a reasonable opportunity to cure, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the city as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the ROW user and the cost of completing work in or restoring the rights-of-way, up to the full amount of the bond. The city may also recover against the bond any amount recoverable against a security fund or letter of credit where such amount exceeds that available under a security fund or letter of credit.

c. *Bond terms.* The bond shall be issued by a surety with an "A" or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition, shall be subject to the approval of the city's attorney and shall contain the following endorsement: "This bond may not be cancelled or allowed to lapse until 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."

d. *Exception.* 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 $25,000.00. Additionally, in accordance with RSMo. 67.5121(4), the bonds required for "small wireless facilities" as defined in the Uniform Small Wireless Facility Deployment Act shall not exceed $1,500.00 per "small wireless facility" or more $75,000.00 for all "small wireless facilities" within the ROW of a ROW user. This exception to the city's bonding requirements shall only apply as related to such "small wireless facilities" and shall not otherwise alter the obligations of a ROW user to provide appropriate bonds to the city for any other activities or operations.

7. *Indemnification.* Any person performing excavation or a ROW user as a condition of use of the rights-of-way shall at its sole cost and expense fully indemnify, protect, defend (with counsel acceptable to the city), and hold harmless the city, its municipal officials, officers, employees, and agents, from and against any and all claims, demands, suits, proceedings, and actions, liability, and judgment by other persons for damages, losses, costs, and expenses, including attorney fees, arising, directly or indirectly, in whole or in part, from the action or inaction of the person performing excavation or ROW user, its agents, representatives, employees, contractors, subcontractors, or any other person for whose acts the person performing excavation or ROW user may be liable, in constructing, operating, maintaining, repairing, restoring, or removing facilities or other structures, or use of the rights-or-way or the activities performed, or failed to be performed, by the person performing excavation or ROW user under this chapter or applicable law, or otherwise, except to the extent arising from or caused by the sole or gross negligence or willful misconduct of the city, its elected officials, officers, employees, agents, or contractors. Nothing herein shall be deemed to prevent the city, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve the person from the duty to defend against liability or its duty to pay any judgment entered against the city, or its agents. This indemnification shall survive the expiration or termination of any ROW use agreement, license, or permit. Provided however, that in accordance with RSMo. 67.5121(2), a ROW user solely to the extent a ROW user is operating "small wireless facility" as defined in the Uniform Small Wireless Facility Deployment Act within the ROW shall only indemnify and hold the city, its officers and employees, harmless against any damage or personal injury caused by the negligence of the ROW user, its employees, agents, or contractors. This exception shall only apply to the ROW user's "small wireless facilities" and shall not otherwise alter the obligations of a ROW user to provide indemnification to the city for any other activities or operations.

8. *ROW user responsible for costs.* The ROW user shall be responsible for all reasonable costs borne by the city that are directly associated with ROW user's installation, maintenance, repair, operation, use, and replacement of its facilities in the rights-of-way that are not otherwise accounted for as part of the permit fee established pursuant to this chapter, to the extent

permitted by law. All such costs shall be itemized and the city's books and records related to these costs shall be made available upon request of the ROW user.

Section 525.445. Jurisdiction, Inspection, Stop Work Orders, Appeals, and Penalties.

1. *Inspections.* All work and facilities shall be subject to inspection by the city and the supervision of all federal, state, and local authorities having jurisdiction in such matters to ensure compliance with all applicable laws, ordinances, departmental rules and regulations, and the permit.

2. *Stop work orders.* The director shall have full access to all portions of the work and may issue stop work orders and corrective orders to prevent unauthorized work or substandard work as established herein. Except in cases of an emergency or with approval of the director, no work may be done in violation of a stop work order issued by the director.

3. *Repairs when defective.* All violations of the standards and requirements herein shall be corrected within the time specified in the issuance of a written notice to correct. Action to correct violations which require immediate action shall be taken upon notification to the person by the city. Every person failing to comply with the oral or written notice shall be deemed in violation of this chapter. If the action is not taken within the time period specified by notice and in addition to any other remedy, the director may have the violation, including but not limited to, the existence of mud or debris on the rights-of-way, immediately remedied and the city's costs shall be reimbursed by the ROW user through the surety or otherwise. Nothing in this subsection shall prevent prosecution of violation of this chapter in the absence or in addition to the issuance of notice of violation.

4. *Appeals.* Unless otherwise provided herein or by any other governing ordinance or law, any person aggrieved by a decision, fee or requirement established or made pursuant to this chapter shall, prior to seeking any judicial or statutory relief, if any, file a written appeal of any such decision, fee, or requirement with the city council within 15 days of such decision or imposition of such fee or requirement specifying this provision and including specific details of the alleged claim or grievance, and an evidentiary hearing shall be held on such appeal by the city council or its designee to render a final decision. Nothing herein shall deny or preclude any additional applicable appeal remedy that may be granted and required by federal or state law after such decision.

5. *Penalties.* In addition to any other penalties and remedies for violations that may exist in law or equity, any person that violates any provision of this chapter shall be subject to such penalties as set forth in section 1-5 of the City Code per day for each and every day the violation exists or continues.

Section 525.450. Reservation of Rights.

In addition to any rights specifically reserved to the city by this chapter, the city reserves unto itself every right and power which is required to be reserved by a provision of any ordinance under any registration, permit, or other authorization granted under this chapter, and as may be authorized by RSMo. Ch. 67 and other authority applicable to regulation of the use of the rights-of-way. Notwithstanding anything to the contrary set forth herein, the provisions of this chapter shall not infringe upon the rights of any person pursuant to any applicable state or federal statutes, including, but not limited to any right that may exist to occupy the rights-of-way.

Chapter 530. Parks, Recreation, and City-Owned Property

Section 530.010. Prohibited Acts Generally.

It is prohibited for any person while on the property of a city park, trail, or other city owned property to:

1. Willfully make, deface, disfigure, injure, tamper with, displace or remove any building, bridge, table, bench, grill, railing, signs, monuments, stakes, post's, paving material, water lines or any other public property whether temporary or permanent.
2. Litter, befoul, or soil any restroom or grounds within the property.
3. Dig or remove any soil, rock, stone, flower, tree, shrub, or plant; nor cut down any tree or shrub; or make any excavation by tool, equipment, blasting, or other means without the written consent of the Park Board or City Council.
4. Construct or erect any building or structure or whatever kind, whether permanent or temporary in character or to place a string of any public utilities into, upon or across such park land without the written consent of the park board or City Council.
5. Climb, stand or sit upon buildings, monuments, vases, fountains, railings, fences, or upon any other park property not provided for or customarily used for such purposes.
6. The uses of metal detectors are prohibited within the park.
7. Discharge or cause to be discharged any firework inside a city park without the written consent of the City Council.
8. Drive any motorized vehicle except those vehicles operated by city maintenance personnel or emergency personnel.
9. Allow animal or pet to defecate on any area of a park without promptly removing it from the grounds.
10. Animal waste shall not be placed into trash receptacles.
11. Failing to abide by any and all rental contract agreements when renting a city facility including after event clean-up and reporting of damage.

Section 530.020. Hours of Operation.

It shall be unlawful for any person to be present in a municipal park of the city from 11 O'clock P.M. to 6 O'clock A.M. unless such person and/or group has prior written authorization from the park board or City Council to be present during such prohibited hours. The police department shall be furnished a copy of all such written authorizations. Community center hours are determined by rental contract in advance at the city hall offices.

Section 530.030. Burning Regulations on Park Property.

Fires inside the park shall only be ignited and maintained in grills, for the purpose of food consumption. Any grill shall not be placed under the covering of any structure. Those persons responsible for a fire shall extinguish it completely after use. All ashes, charcoal, briquettes or any other material used or consumed shall be removed from the park by the person, or persons responsible for the fire.

Section 530.040. Peddling from Parked Vehicles.

A. No person shall park any vehicle on any public way, city park or real property in this city for the purpose of selling or offering for sale, any goods, produce, or merchandise or for the purpose of soliciting business without the approval of the council.

B. This section shall not apply to those selling goods on designated days by the city council for events such as Junk-in-the-trunk, Farmers Market, etc. Any person participating in these events shall provide a current sales tax certificate and pay ten dollars ($10.00) season license fee. All other state health regulations shall apply.

Section 530.050. Possession of Alcoholic Beverages on City-Owned Property.

It shall be unlawful to possess intoxicating liquor, malt liquor or non-intoxicating beer on all real estate owned by the city including, but not limited to, all city-owned parks, community center, or city hall gazebo unless such person and/or group has prior written authorization from the City Council and has paid a special use permit fee.

Section 530.060. Rental Fees.

The city maintains the right to charge fees for specific areas or amenities for the right to use or reserve such areas. The following fees shall apply, but Council may choose to waive fees for non-profit uses upon advance request. City pavilion usage has no cost; however, it is a "first-come" basis unless rental fees have been paid.

Reservation of outdoor pavilion without electricity	$15.00 per hour
Reservation of any outdoor pavilion with electricity	$20.00 per hour
Usages of park concession stand and pavilion together	$25.00 per hour
Usage of community center / gymnasium (50% deposit required)	$30.00 per hour or $350 for full day

*No dates or times will be held for any individual until fees have been paid to city hall.

Chapter 600. Selling and Serving of Alcoholic Beverages

Section 600.010. Definitions.

When used in this Chapter, the following words shall have the following meanings:

AMUSEMENT PLACE

Any establishment whose business building contains a square footage of at least six thousand (6,000) square feet, and where games of skill commonly known as billiards, volleyball, indoor golf, bowling or soccer are usually played or has a dance floor of at least twenty-five hundred (2,500) square feet or any outdoor golf course with a minimum of nine (9) holes, and which has annual gross receipts of at least one hundred thousand dollars ($100,000.00) of which at least fifty thousand dollars ($50,000.00) of such gross receipts is in non-alcoholic sales.

CLOSED PLACE

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

INTOXICATING LIQUOR

Alcohol for beverage purposes, including alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes containing in excess of one-half of one percent (0.5%) by volume, except for non-intoxicating beer as defined herein. All beverages having an alcoholic content of less than one-half of one percent (0.5%) by volume shall be exempt from the provisions of this Chapter.

LIGHT WINES

An intoxicating liquor consisting of wine containing not in excess of fourteen percent (14%) of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables.

MALT LIQUOR

An intoxicating liquor containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight manufactured from pure hops or pure extract of hops, or pure barley malt, or wholesome grains or cereals, and wholesome yeast, and pure water.

ORIGINAL PACKAGE

Any package sealed or otherwise closed by the manufacturer so as to consist of a self-contained unit, and consisting of one (1) or more bottles or other containers of intoxicating liquor or non-intoxicating beer, where the package and/or container(s) describes the contents thereof as intoxicating liquor or non-intoxicating beer. *"Original package"* shall also be construed and held to refer to any package containing three (3) or more standard bottles of beer.

PERSON

An individual, association, firm, joint stock company, syndicate, partnership, corporation, receiver, trustee, conservator, or any other officer appointed by any State or Federal court.

POSSESSION

An article is in the "possession" of a person when it is on his/her person or in a vehicle in which he/she is riding or sitting or otherwise under his/her control for immediate use.

RESORT

Any establishment having at least thirty (30) rooms for the overnight accommodation of transient guests having a restaurant or similar facility on the premises at least sixty percent (60%) of the gross income of which is derived from the sale of prepared meals or food, or means a restaurant provided with special space and accommodations where, in consideration of payment, food, without lodging, is habitually furnished to travelers and customers, and which restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than seventy-five thousand dollars ($75,000.00) per year with at least fifty thousand dollars ($50,000.00) of such gross receipts from non-alcoholic sales, or means a seasonal resort restaurant with food sales as determined in Subsection (2) of Section 311.095, RSMo. Any facility which is owned and operated as a part of the resort may be used to sell intoxicating liquor by the drink for consumption on the premises of such facility and, for the purpose of meeting the annual gross food receipts requirements of this definition, if any facility which is a part of the resort meets such requirement, such requirement shall be deemed met for any other facility which is a part of the resort.

RESTAURANT BAR

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

Section 600.015. Sale By The Drink Defined.

The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty (50) milliliters shall be deemed *"sale by the drink"* and may be made only by a holder of a retail liquor dealer's license and, when so made, the container in every case shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

Section 600.020. License Required — Classes of Licenses.

A. No person shall sell or offer for sale intoxicating liquor in the City of Carterville without a currently valid liquor license issued by the City. A separate liquor license shall be required for each of the categories and subcategories of liquor sales in which the licensee desires to engage as set forth herein.

B. *General Licenses.* Any person possessing the qualifications and meeting the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor or non-intoxicating beer:

1. *Package liquor—malt liquor only:* Sales of malt liquor at retail in the original package not for consumption on the premises where sold. This license may include Sunday sales from 11:00 A.M. to Midnight.

2. *Package liquor—all kinds:* Sales of all kinds of intoxicating liquors in the original package at retail not for consumption on the premises where sold, including sales as set forth in Subsections (B)(1) of this Section.

3. *Liquor by the drink—malt liquor/light wine only:* Sales of malt liquor and light wines at retail by the drink for consumption on the premises where sold, including sales as set forth in Subsections (B)(1) and (5) of this Section.

4. *Liquor by the drink—all kinds:* Sales of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold, including package sales as set forth in Subsection (B)(3) of this Section.

C. *Sunday Sales*. Any person who is licensed under the provisions of this Chapter or who otherwise possesses the qualifications and meets the requirements of this Chapter may apply for the following licenses to sell intoxicating liquor on Sundays between the hours of 11:00 A.M. and Midnight:

1. *Package liquor—all kinds:* Sales of liquor of all kinds in the original package at retail not for consumption on the premises where sold.

2. *Liquor by the drink—restaurant bar:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any restaurant bar.

3. *Liquor by the drink—amusement place:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any amusement place.

4. *Liquor by the drink—place of entertainment:* Sales of liquor of all kinds by the drink at retail for consumption on the premises of any place of entertainment.

D. *Permits.*

1. *Temporary permit for sale by drink.* Any person who possesses the qualifications, meets the requirements and complies with the provisions of Section 600.030(C) below may apply for a special permit to sell intoxicating liquor for consumption on premises where sold.

2. *Tasting permit.* Any person who is licensed to sell intoxicating liquor in the original package at retail under Subsections (B)(3) and (C) of this Section above may apply for a special permit to conduct wine, malt beverage and distilled spirit tastings on the licensed premises; however, nothing in this Section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

Section 600.030. License Regulations.

A. *Package Sales, Limitations.* No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one (1) or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his/her store a stock of goods having a value according to invoices of at least one thousand dollars ($1,000.00), exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this Chapter or law.

B. *Newly-Opened Restaurant Bars Or Amusement Places*.

1. Any new restaurant bar having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 11:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the restaurant bar can show a projection of annual business from prepared meals or food consumed on the premises of at least fifty percent (50%) of the total gross income of the restaurant bar for the year or can show a projection of annual business from prepared meals or food consumed on the premises which would exceed not less than two hundred thousand dollars ($200,000.00). The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

2. Any new amusement place having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 11:00 A.M. and Midnight on Sunday for a period not to exceed ninety (90) days if the amusement place can show a projection of gross receipts of at least one hundred thousand dollars ($100,000.00) of which at least fifty thousand dollars ($50,000.00) of such gross receipts are in nonalcoholic sales for the first (1st) year of operation. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

C. *Temporary Permit For Sale By Drink—Certain Organizations.*

1. The City Collector may issue a permit for the sale of intoxicating liquor for consumption on premises where sold to any church, school, civic, service, fraternal, veteran, political or charitable club or organization for sale at a picnic, bazaar, fair or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven (7) days by any such club or organization.

2. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 11:00 A.M.

3. At the same time that an applicant applies for a permit under the provisions of this Subsection, the applicant shall notify the Director of Revenue of the holding of the event by certified mail and by such notification shall accept responsibility for the collection and payment of any applicable sales tax.

4. No provision of law or rule or regulation of the City shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

D. *Operating Hours, Days.*

1. No person having a license issued pursuant to this Chapter, nor any employee of such person shall sell, give away or permit the consumption of, any intoxicating liquor in any quantity between the hours of 1:30 A.M. and 6:00 A.M. on weekdays, and between the hours of 1:30 A.M. on Sunday and 6:00 A.M. on Monday, upon or about his/her premises, except as otherwise authorized and licensed for Sunday sales. Any person licensed to sell intoxicating liquor by the drink shall keep a closed place during the aforementioned prohibited times.

2. When January first (1st), March seventeenth (17th), July fourth (4th) or December thirty-first (31st) falls on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the National Football League is played, commonly known as "Super Bowl Sunday", any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his/her license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of this Chapter to the contrary.

E. *General License Regulations.*

1. Each license issued hereunder shall be conspicuously posted on the premises for which the license has been issued.

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

3. No license issued under this Chapter shall be transferable or assignable except as herein provided. In the event of the death of the licensee, the widow or widower or the next of kin of such deceased licensee, who shall meet the other requirements of this Chapter, may make application and the Clerk may transfer such license to permit the operation of the business of the deceased for the remainder of the period for which a license fee has been paid by the deceased. Whenever one (1) or more members of a partnership withdraw from the partnership, the Clerk, upon being requested, shall permit the remaining partner or partners originally licensed to continue to operate for the remainder of the period for which the license fee has been paid without obtaining a new license.

4. In the event any licensee desires to change the location of his/her place of business in the City, it shall be necessary for him/her to file an application in the same manner as herein provided for an original application, except that no additional fee shall be charged and the amended license, describing the new location, shall be issued immediately upon the approval of the application by the Council. Any

change of location of the enterprise prior to issuance of such an amended license shall constitute a violation of this Section.

F. *Druggists May Sell And Physicians Prescribe Liquor*. Any druggist may have in his/her possession intoxicating liquor purchased by him/her from a licensed vendor under a license pursuant to State law, or intoxicating liquor lawfully acquired at the place of acquisition and legally transported into this State, and lawfully inspected, gauged and labeled as provided by State law; such intoxicating liquor to be used in connection with the business of a druggist in compounding medicines or as a solvent or preservant; provided, that nothing in this Chapter shall prevent a regularly licensed druggist, after he/she procures a license therefor, from selling intoxicating liquor in the original package but not to be drunk or the packages opened on the premises where sold; and provided further, that nothing in this Chapter shall be construed as limiting the right of a physician to prescribe intoxicating liquor in accordance with his/her professional judgment for any patient at any time or prevent a druggist from selling intoxicating liquor to a person on prescription from a regularly licensed physician as above provided.

Section 600.033. Limitation On Number of Licenses Available.

A. *To Sell Beer For On-Premises Consumption.*

1. Except as hereinafter provided in this Section, no license shall be granted by the City for the sale of intoxicating beer for consumption on the premises where sold in excess of one (1) such license for each five hundred (500) inhabitants, or major fraction thereof, of the City as established by the last United States Government census.

B. *To Sell At Retail In Original Package Not For On-Premises Consumption.*

1. Except as hereinafter provided in this Section, no license shall be granted by the City for the sale at retail of intoxicating liquor in the original package or for the sale at retail of five percent (5%) beer in excess of one (1) such license for each five hundred (500) inhabitants, or major fraction thereof, of the City as established by the last United States Government census.

2. The limitation as to the number of licenses for the sale of intoxicating liquor and beer in original package set forth herein shall not be deemed to apply in the case wherein sixty percent (60%) of the sales on the premises in question are for food products exclusive of intoxicating liquor and/or beer.

Section 600.035. Sales of Liquor Prohibited Near Schools and Churches.

A. No license shall be granted for the sale of intoxicating liquor, as defined in this Chapter, within one hundred (100) feet of any school, church or other building regularly used as a place of religious worship, unless the applicant for the license shall first obtain the consent in writing of the City Council, except that when a school, church or place of worship shall hereafter be established within one hundred (100) feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason. Such consent shall not be granted until at least ten (10) days' written notice has been provided to all owners of property within one hundred (100) feet of the proposed licensed premises.

B. Subsection (A) of this Section shall not apply to a license issued by the Supervisor of Alcohol and Tobacco Control for the sale of intoxicating liquor pursuant to Section 311.218, RSMo., or to a license issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization which has obtained an exemption from the payment of federal taxes.

C. Subsection (A) of this Section shall not apply to any premises holding a license issued before passage of the city code, for the sale of intoxicating liquor. To retain a license under this Subsection, the licensed

premises shall not change license type, amend the legal description, or be without a liquor license for more than ninety (90) days.

Section 600.040. Schedule of License Fees.

A. The following categories and subcategories of licenses shall be issued upon compliance with the provisions of this Chapter and payment of the license fee indicated:

1. *General licenses.*

   a. Malt liquor—original package: $50.00.

   b. Intoxicating liquor (all kinds)—original package: $100.00.

   c. Malt liquor—by drink (includes Sunday): $50.00.

   d. Malt liquor and light wines—by drink (includes Sunday): $50.00.

   e. Intoxicating liquor (all kinds)—by drink: $300.00.

2. *Sunday sales*. (Additional fees)

   a. Intoxicating liquor—original package: $100.00.

   b. Restaurant bars: $100.00.

   c. Amusement places: $100.00.

   d. Liquor by the drink—charitable organizations: $50.00.

3. *Permits*.

   a. Temporary permit—by the drink for certain organizations (7 days max.): $25.00.

   b. Tasting permit: $25.00.

   c. Caterers: $10.00 per each calendar day.

(Authority of city to determine fee; RSMO 311.220.1)

Section 600.045. Temporary Location For Liquor By The Drink, Caterers — Permit — Fee Required.

A. The City may issue a temporary permit to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this Chapter who furnish provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises, but not including a *"festival"* as defined in Chapter 316, RSMo. The temporary permit shall be effective for a period not to exceed one hundred sixty-eight (168) consecutive hours, and shall authorize the service of alcoholic beverages at such function, occasion or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every permit issued pursuant to the provisions of this Section, the permittee shall pay to the City an amount as set out in Section 600.040(3)(c) above, or fraction thereof, for which the permit is issued.

B. Except as provided in Subsection (C), all provisions of the Liquor Control Law and the ordinances, rules and regulations of the City, in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees, or stock are in such premises. Except for Missouri-produced

wines in the original package, the provisions of this Section shall not include the sale of packaged goods covered by this temporary permit.

C. Notwithstanding any other law to the contrary, any caterer who possesses a valid State and valid local liquor license may deliver alcoholic beverages, in the course of his/her catering business. A caterer who possesses a valid State and valid local liquor license need not obtain a separate license for each City the caterer delivers in, so long as such City permits any caterer to deliver alcoholic beverages within the City.

D. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent (5%) by weight or nonintoxicating beer delivered and invoiced under the catering permit number, but not used, if the wholesaler removes the product within seventy-two (72) hours of the expiration of the catering permit issued pursuant to this Section.

Section 600.050. Application For License and Renewal.

A. *Filing Of An Application*. Each application for an original or renewal license shall be filed with the City Clerk on a form to be provided by the City, signed and sworn to by the applicant. Each application shall be accompanied by a proper remittance reflecting the appropriate license fee made payable to the City.

B. *Qualifications*. Neither the applicant nor any officer, director or shareholder of a corporate applicant shall have been convicted of a felony or of any distribution, sale or possession of any controlled substances or dangerous drugs. The applicant shall present with the application a bona fide sale contract or option duly executed, which may be subject to the applicant obtaining a liquor license, or a bona fide lease duly executed by the lessor, or an option for a lease duly executed, subject to the applicant obtaining a liquor license, covering the property for which a liquor license is requested. If the applicant is a corporation, the petition shall set forth all of the above information with respect to the managing officer or officers, identifying such officer or officers. The application shall further state the full name of the corporation, its date of incorporation, its registered agent and registered address, the names and addresses of all shareholders of the corporation, and whether said corporation operates any other business or controls or is controlled by any other corporation or business and, if so, the application shall further state the name of such controlled or controlling corporation or business, its registered agent and registered address, and the location of all businesses operated by it and the name and address of any such businesses with a liquor license, whether within or without the City; and the application shall also state if such controlling corporation or any controlled corporation is doing business under a fictitious name, and the address where said business is located. The City Council also may request such additional information of an applicant as it may deem necessary for it to make a determination with respect to the issuance of a liquor license.

C. Upon approval of any application for a license, the Clerk shall grant the applicant a license to conduct business in the City for a term to expire with the thirty-first (31st) day of December next succeeding the date of such license, unless such license be revoked or suspended for cause before the expiration of such time.

D. Applications for renewal of licenses must be filed on or before the first (1st) day of November of each calendar year.

Section 600.060. Minors.

A. *Persons Eighteen Years Of Age Or Older May Sell Or Handle Liquor Or Beer, When.*

1. Except as otherwise provided in this Section, no person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor or non-intoxicating beer.

2. In any place of business licensed in accordance with this Chapter, persons at least eighteen (18) years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment for, and sack for carry-out intoxicating liquor or non-intoxicating beer. Delivery of intoxicating liquor or non-intoxicating beer away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years. Any licensee who employs any person under the age of twenty-one (21) years, as authorized by this Subsection, shall, when at least fifty percent (50%) of the licensee's gross sales does not consist of non-alcoholic sales, have an employee twenty-one (21) years of age or older on the licensed premises during all hours of operation.

3. Persons eighteen (18) years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor or non-intoxicating beer in places of business which sell food for consumption on the premises if at least fifty percent (50%) of all sales in those places consists of food; provided that nothing in this Section shall authorize persons under twenty-one (21) years of age to mix or serve across the bar intoxicating beverages or non-intoxicating beer.

B. *Sales To Minor—Exceptions.*

1. No licensee, his/her employee, or any other person shall procure for, sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) years, except that this Section shall not apply to the parent or guardian of the minor nor to the supplying of intoxicating liquor to a person under the age of twenty-one (21) years for medical purposes only or to the administering of such intoxicating liquor to such person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this Chapter solely due to a conviction for unlawful sale or supply to a minor while serving in the capacity as an employee of a licensed establishment.

2. Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one (21) to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one (21) from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one (21) to drink or possess intoxicating liquor is his/her parent or guardian, is guilty of an ordinance violation.

3. It shall be a defense to prosecution under this Subsection if:

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

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

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

C. *Misrepresentation Of Age By Minor To Obtain Liquor—Use Of Altered Driver's License, Passport Or I.D. Cards, Penalties.*

1. No person under the age of twenty-one (21) years shall represent, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, that he/she has attained the age of twenty-one (21) years, except in cases authorized by law.

2. In addition to Subsection (C)(1) of this Section, no person under the age of twenty-one (21) years shall use a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by any uniformed service of the United States, passport or identification card established in Section 302.181, RSMo., for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor.

D. *Minors In Possession Of Intoxicating Liquor, Non-Intoxicating Beer.*

1. Any person under the age of twenty-one (21) years who purchases or attempts to purchase, or has in his/her possession, any intoxicating liquor or non-intoxicating beer as defined in Section 600.010 or who is visibly intoxicated as defined in Section 577.001, RSMo., or has a detectable blood alcohol content of more than two-hundredths of one percent (.02%) or more by weight of alcohol in such person's blood is in violation of this Section.

Section 600.070. Miscellaneous Offenses.

A. *Unlawful For Licensed Retailer To Purchase From Other Than Licensed Wholesaler*. It shall be unlawful for any licensee to purchase any intoxicating liquor except from, by or through a duly licensed wholesale liquor dealer in this State. It shall be unlawful for such retail liquor dealer to sell or offer for sale any intoxicating liquor purchased in violation of the provisions of this Section.

B. Any retailer licensed pursuant to this Chapter shall not:

1. Sell intoxicating liquor or non-intoxicating beer with an alcohol content of less than five percent (5%) by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart or cut apart; or

2. Repackage intoxicating liquor or non-intoxicating beer with an alcohol content of less than five percent (5%) by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

C. *Mixing Liquor With Drugs Prohibited*. No licensee, or any other person, shall for any purpose whatsoever mix or permit or cause to be mixed with any intoxicating liquor kept for sale, sold or supplied by him/her as a beverage any drug or form of methyl alcohol or impure form of alcohol.

D. *Unlawful To Sell Unlabeled Liquor—Penalty*. It shall be unlawful for any person to sell any intoxicating liquor which has not been inspected and labeled according to the provisions of the Liquor Control Law of Missouri, and any such person upon conviction shall have his/her license revoked and shall be ineligible to receive any subsequent liquor license for a period of two (2) years thereafter.

E. *Only Those Liquors Authorized By License To Be Kept On Premises*.

1. It shall be unlawful for any licensee licensed for the sale of intoxicating liquor at retail by the drink for consumption on the premises to keep in or upon the premises described in such license any intoxicating liquor other than the kind of liquor expressly authorized to be sold by such licensee.

2. Any retailer licensed pursuant to this Chapter shall not:

a. Sell intoxicating liquor or non-intoxicating beer with an alcohol content of less than five percent (5%) by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart or cut apart; or

b. Repackage intoxicating liquor or non-intoxicating beer with an alcohol content of less than five percent (5%) by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

F. *Persons Apparently Intoxicated Not To Be Provided With Intoxicating Liquor Or Non-Intoxicating Beer*. It shall be unlawful for any licensee, or his/her employee or agent, to sell or supply intoxicating liquor or non-intoxicating beer, or permit such to be sold or supplied, to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor.

G. *Drinking In Public Places Prohibited.*

1. For purposes of this Section, the term *"public place"* shall mean any public street, park, highway, alley, sidewalk, thoroughfare or other public way of the City, or any parking lot.

2. No person shall drink or ingest any intoxicating liquor or non-intoxicating beer in or on any public place without prior approval of the City Council.

3. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor or non-intoxicating beer while in or upon any public place.

4. No person shall possess or have under his/her control any unsealed glass, bottle, can or other open container of any type containing any intoxicating liquor or non-intoxicating beer while within or on any motor vehicle while the same is being operated upon, or parked or standing in or upon, any public place. Any person operating a motor vehicle shall be deemed to be in possession of an open container contained within the motor vehicle he/she has control of whether or not he/she has actual physical possession of the open container.

Section 600.080. Administration of Law — License Suspension.

A. The Council may suspend or revoke the license of any person for cause shown. In such cases the City Clerk shall schedule a hearing before the Council not less than ten (10) days prior to the effective date of revocation or suspension, and prior to the hearing the Clerk shall give not less than ten (10) days' written notice specifying grounds for the suspension or revocation thereof to the licensee of the grounds upon which the license is sought to be revoked or suspended and the time, date and place of the hearing. Notice may be accomplished by personal delivery, U.S. mail or by posting on the licensed premises. The hearing shall be conducted in accordance with Section 600.090 of this Chapter.

B. *Grounds For Suspension Or Revocation*. A license may be suspended or revoked for any of the following reasons:

1. Violating any of the provisions of either this Chapter, Chapters 311 or 312, RSMo., or any ordinance of the City;

2. Failing to obtain or keep a license from the State Supervisor of Alcohol and Tobacco Control;

3. Making a false affidavit in an application for a license under this Chapter;

4. Failing to keep an orderly place or house;

5. Selling, offering for sale, possessing or knowingly permitting the consumption on the licensed premises of any kind of intoxicating liquors, the sale, possession or consumption of which is not authorized under the license;

6. Selling, offering for sale, possessing or knowingly permitting the consumption of any intoxicating liquor which has not been inspected and labeled according to the laws of the State of Missouri; or 7. Selling, giving, or otherwise supplying intoxicating liquor to:

   a. Any person under the age of twenty-one (21) years,

   b. Any person during unauthorized hours on the licensed premises,

   c. A habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor, or

   d. Any person on the licensed premises during a term of suspension as ordered by the Council.

C. *Automatic Revocation/Suspension.* A license shall be revoked automatically if the licensee's State liquor license is revoked or if the licensee is convicted in any court of any violation of Chapter 311 or Chapter 312, RSMo., or of any felony violation of Chapter 195, RSMo., in the course of business. A license shall be suspended automatically if the licensee's State liquor license is suspended, and the suspension shall be for a term not less than that imposed by the State.

D. *Effect Of Suspension*. No person whose license shall have been suspended by order of the Council shall sell or give away any intoxicating liquor or non-intoxicating beer during the time such suspension is in effect. Any licensee desiring to keep premises open for the sale of food or merchandise during the period of suspension shall display the Council's order of suspension in a conspicuous place on the premises so that all persons visiting the premises may readily see the same.

Section 600.090. Hearings Upon Suspension or Revocation of Licenses.

A. *Testimony—Evidence.* Hearings before the Council shall be in the nature of informal investigations. Testimony of witnesses and other evidence pertinent to the inquiry may be taken in such hearings, and all proceedings in such hearings shall be recorded. Any person residing or conducting a business within two hundred (200) feet of the proposed establishment shall have the right to produce witnesses and testimony.

B. *Decision—Suspension Or Revocation*. If the evidence supports a finding that the license should be revoked or suspended pursuant to Section 600.080 of this Chapter, the Council shall issue a written order which shall include specific findings of fact setting forth the grounds for the action taken. If the evidence fails to support a finding that the license should be revoked or suspended, then no such order shall be issued.

Chapter 605. Business Licenses and Regulations

Article I. In General

Section 605.010. Procurement of License and Payment of License Fee Required.

Every person engaged in any business, occupation, pursuit, profession or trade or in the keeping or maintaining of any institution, establishment, article, utility or commodity as specified by this Chapter shall procure a license from the City and pay a license fee therefore.

Section 605.020. Conditions Precedent To Issuance of License.

A. No license shall be issued to any person until:

1. He/she has paid all license fees required by this Code for the license for which he/she is an applicant.
2. He/she has given such bond, if any, as may be required by this Code as a condition precedent to the issuance of the license for which he/she is an applicant, and such bond has been approved by the City Collector.
3. He/she has produced for the inspection and approval of the issuing officer evidence of any insurance coverage as may be required by this Code, together with a receipt showing the premium thereon to be fully paid for the period for which the license is sought.
4. He/she has produced for the inspection and approval of the issuing officer a certificate showing that he/she has complied with the provisions of the Workers' Compensation law of this state, where such compliance is a condition precedent to the issuance of the license for which he/she is an applicant.
5. All persons to be covered by the license applied for have passed the proficiency test, if any, as may be provided by this Code as a condition precedent to the issuance of the license.
6. All inspections, if any, as may be provided by this Code as a condition precedent to the issuance of the license applied for have been made and successfully passed.
7. All investigations have been made and approvals have been given, where investigation and approval is required by this Code as a condition precedent to the issuance of the license applied for.

Section 605.030. Form and Validation of Licenses.

Except as may be provided otherwise in this Chapter, the City Collector shall prescribe the form for all licenses issued pursuant to this Chapter, and all such licenses shall be signed by the City Collector and shall be invalid for all purposes until so signed and validated by him/her.

Section 605.040. Applicants For Licenses To Provide Necessary Information To City Collector Annually.

Annually, every person making application to the City Collector for a license to do business under the terms of this Chapter shall provide the City Collector with such information as the City Collector may require to determine the type of license to be issued and the amount to be paid therefor.

Section 605.050. Separate License Required For Each Business — Exceptions — Persons Without Regular Place of Business in City.

Every person who shall engage in more than one (1) of the businesses, trades or occupations named in this Chapter for which a license is required, with the exception of real estate, insurance and loan companies which may be joined under the higher classification, shall be required to obtain a separate license for each business, whether the business be conducted in the same place or not, provided that if a person operates the same identical business in more than one (1) location wherein the license fee required by this Article is based upon gross sales or sales or receipts from such business, one (1) license may be procured based on the total gross receipts of all such businesses which shall cover the conduct of all such business within the City, provided further, that any person not maintaining a regular place of business within the City but engaged in soliciting orders for and selling goods, merchandise or services not for resale shall be required to obtain a license for such business activities.

Cross Reference—Exceptions for certain professions, see §605.140(C—D).

Section 605.060. Preservation and Display of License.

All licenses granted by the City pursuant to this Chapter shall be carefully preserved and shall be displayed in a conspicuous place in the place of business authorized for the conduct of such business, provided that where a licensee has no established place of business within the City, such licensee shall carry such license on his/her person while engaged in the conduct of the licensed business or activity and shall display such license to any Code Enforcement Officer, Police Officer or prospective customer on request.

Section 605.070. License Term One Year Unless Otherwise Provided.

All licenses issued pursuant to this Chapter shall be issued for a period of one (1) year, unless otherwise specified by this Chapter.

Section 605.080. Penalty For Late Payment of License Tax.

For each month or fraction thereof, except the month of issuance, for any license tax that remains unpaid after becoming due and payable, there shall be added to such license tax a penalty of five percent (5%) per month of the amount of such tax. The penalty herein provided shall be in addition to all other penalties elsewhere provided for the violation of any provision of this Chapter.

Section 605.090. License Fee For Merchant Commencing Business.

Any new merchant paying a fee shall pay such fee on the commencing of business.

Section 605.100. Annual License Required For Businesses and Industrial Enterprises Not Otherwise Provided For — License Fee.

Every person conducting any business or industrial enterprise for which no license is specified in this Code or by any other ordinance shall procure a license from the City to conduct such business or enterprise at a license fee of thirty-five dollars ($35.00) per year therefor.

Section 605.120. Violations.

It shall be unlawful for any person who has not first procured and paid for a City license so to do to engage in any business, occupation, pursuit, profession or trade or in keeping or maintaining any institution, establishment, article, utility or commodity for which a City license is required or knowingly to make a false statement in his/her application as to conditions or factors on which the license fee is or shall be based.

Section 605.130. Enforcement Duties of Code Enforcement Officer.

It shall be the duty of the Code Enforcement Officer to prevent any person from commencing, carrying on or conducting any business, trade, calling, amusement, entertainment or other activity for which a license is required without first procuring such license and maintaining it in a currently valid status. The Code Enforcement Officer shall report to the proper authorities of the City all violations of this Chapter and the Police Department may make arrests therefor and cooperate with the City Collector and other officials of the City in the strict enforcement of the provisions of this Chapter and all other license provisions of this Code and other ordinances.

Section 605.140. Certain Occupations Requiring Licenses — Fees.

Every person engaged in any business, occupation, pursuit, profession or trade, or in the keeping or maintaining of any institution, establishment, article, utility or commodity as specified in this Section shall pay the license fee of thirty-five dollars ($35.00).

A. Hereafter no person following for a livelihood the profession or calling of minister of the gospel, duly accredited Christian Science practitioner, teacher, professor in a college, priest, lawyer, certified public accountant, dentist, chiropractor, optometrist, chiropodist, physician or surgeon in this State shall be taxed or made liable to pay any municipal or other corporation tax or license fee of any description whatever for the privilege of following or carrying on such profession or calling and, after December 31, 2003, no investment funds service corporation, as defined in Section 143.451, RSMo., may be required to pay, or shall be taxed or made liable to pay, any municipal or other corporation tax or license fee of any description whatever for the privilege of following or carrying on its business or occupation in excess of or in an aggregate amount exceeding twenty-five thousand dollars ($25,000.00) annually, any law, ordinance or charter to the contrary notwithstanding.

B. No person following for a livelihood the profession of insurance agent or broker, veterinarian, architect, professional engineer, land surveyor, auctioneer or real estate broker or salesman in this State shall be taxed or made liable to pay any municipal or other corporation tax or license fee for the privilege of following or carrying on his/her profession by a municipality unless that person maintains a business office within that municipality.

Section 605.150. Regulating and Licensing Transient Businesses.

A. It shall be unlawful for any transient photographers, merchants, solicitors and vendors, as defined in Subsection (B) of this Section, to engage in such transient business within the City without first obtaining a license therefor in compliance with the provisions of this Section.

B. For the purposes of this Section, *"transient photographer", "merchant", "solicitor"* or *"vendor"* is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, who does not have an established place of business within a twenty-five (25) mile radius of the City limits of the City.

C. All licenses under this Section shall pay a fee equal to that set forth herein for a non-transient business of the same nature.

D. No such license granted shall be transferred without written approval from the City Council. The phrase *"without an established place of business"* shall mean that the licensee does not own real property in the City and that at the location where the business is transacted, the licensee has a written rental or lease agreement of less than thirty (30) days in duration.

Article II. Street Vendors

Section 605.160. Street Vendors — Hours of.

A. It shall be unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity upon any street or alley in the City without first securing a peddler's permit and paying the fee set out in Chapter 625 of this Title.

B. The following rules and regulations shall be complied with by each person using a vehicle for street vending:

1. It shall be unlawful for any street vendor to sell or attempt to sell any commodity except during the daylight hours, from dusk to dawn.

2. It shall be unlawful for any such vendor:

    a. To exceed a speed of twelve (12) miles an hour when cruising neighborhoods seeking sales or when attempting to make a sale,

b. Drive his/her vehicle backwards to make an attempt to make any sale; and

c. Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants.

d. Broadcast any sound that can be heard at a distance in excess of three hundred (300) feet.

C. All ice cream and other frozen novelty trucks and vehicles shall only be allowed to operate on a retail basis within the City during the period between one-half (½) hour after sunrise and one-half (½) hour before sunset.

Article III. Garage Sales

Section 605.170. Garage Sales — Permits — Fees — Penalties.

A. The following terms, phrases and words, together with their normal derivations, shall have the definitions hereinafter set forth:

GARAGE SALE

A sale of goods for profit, offered to the public by a person, conducted at a single-family, a two-family or a mufti-family residential dwelling and shall include, but not be limited to, the terms yard sale, patio sale, moving sale and rummage sale.

GOODS

Any wares, merchandise, articles or other tangible personal property capable of being the object of a garage sale regulated hereunder. Items that are subject to sales tax or that have been purchased for resale are excluded.

PERSON

Any individual, group of individuals, firm, partnership, association, corporation, company or organization of any nature whatsoever.

B. Except as hereinafter provided, permitted and allowed, it shall be unlawful for any person to conduct a garage sale within the City.

C. Any person proposing to conduct a garage sale shall first obtain a permit for such garage sale from the City Collector. The City Collector shall issue such permit, after application, only in accordance with the terms and conditions contained in this Article, upon payment of the required permit fee to the City Collector, with such permit fee being set and specified as three dollars ($3.00) for each permit.

D. The application for any garage sale permit shall be signed by the applicant therefor and shall contain the following information:

1. The name, address and telephone number, if any, of the applicant and the vendors at such proposed garage sale.

2. The date or inclusive dates of the proposed garage sale.

3. The exact street address location of the proposed garage sale.

E. The following regulations shall apply regarding the issuance of garage sale permits and the conduct of any garage sale by a person to whom a garage sale permit is issued:

1. No garage sale permit shall be issued to any person who has previously been granted three (3) separate garage sale permits, regardless of the location of such garage sales, within the calendar year for which application is then made.
2. No more than three (3) garage sales may be permitted at any single location during any calendar year.
3. No more than three (3) permits may be issued to the same person, and no more than three (3) garage sales may be permitted at any single location, unless an interval of at least thirty (30) consecutive days shall transpire between the proposed effective dates of such permits.
4. No garage sale permit may be transferable, refundable or renewable.
5. No garage sale permit shall be issued for a period extending beyond three (3) consecutive days duration.
6. No person shall erect, place, post or mark any sign advertising a garage sale on any public property, signs, posts or poles. Any sign erected on private property advertising a garage sale shall be removed by the person permitted to conduct such garage sale on or before the last day of the garage sale advertised upon such sign. Notwithstanding anything in this Section to the contrary, any sign advertising a garage sale may not be posted sooner than two (2) days next preceding the commencement of such garage sale and may not be larger than two (2) feet by three (3) feet in dimension.
7. Notwithstanding anything in this Section to the contrary, in the event that any permitted garage sale shall be delayed by rain or other inclement weather, then such garage sale, upon written request of the permittee thereof, may be permitted upon any date or dates within the ten (10) day period immediately following the last date upon which such garage sale was originally permitted. Any extension of a garage sale permit herein authorized because of rain or other inclement weather shall be within the sole discretion of the City Clerk who shall endorse upon the original permit the new date or dates upon which such a garage sale shall be permitted. The decision of the City Clerk upon any such extension of the validity of a garage sale permit because of rain or other inclement weather shall be final.

Article IV. Miscellaneous Regulations

Section 605.180. Kennels.

A. No person, firm, corporation or other entity shall maintain in the City a kennel where dogs are kept for sale, without securing a license therefor from the City Collector. The license fee shall be twenty-five dollars ($25.00) per year. This fee shall be in addition to the license fee prescribed in the preceding Sections, for each dog kept in such kennel.

B. No person owning more than three (3) dogs or cats over the age of six (6) months shall be issued a City license to operate a kennel until they first obtain a kennel license from the State of Missouri.

Section 605.190. Licenses and Permits — Not To Be Issued To Delinquent Taxpayers — Exception As To Dog Licenses.

No license or permit shall be issued to any person owing the City any delinquent personal, sales, property, merchant's or other City tax until such tax shall be paid in full to the City; but dog and cat licenses are hereby excepted from the provisions of this Section, and as to such, the provisions hereof shall not apply.

Section 605.200. Licenses and Permits — Issuance To Corporations, Etc., and To Persons Engaged in Joint Enterprise — Assignability.

A license or permit may be issued to any corporation, association or partnership or to two (2) or more persons engaged in any joint enterprise, the same as to a single person and for the same charge, except where otherwise specifically provided, provided, that no license or permit issued shall be assignable unless specifically provided for by the provisions of this Code or other ordinance.

Chapter 615. Vehicles for Hire

Article I. Taxicabs

Section 615.010. Taxicab Business License — Required.

No person shall engage in the business of carrying passengers for hire in motor vehicles over irregular routes of the City, such business being commonly known as the taxicab business, until such person shall have first obtained a license from the City authorizing him/her to engage in such business.

Section 615.020. Taxicab Business License — Annual License Fee — When License Fee Payable.

Each person engaged in the taxicab business shall pay an annual license fee as set forth in Section 605.140, for each vehicle used by him/her as a taxicab.

Section 615.030. Application For Taxicab Business License.

Any person desiring to engage in the taxicab business shall file with the City Council his/her written application setting out in full the ownership, the equipment to be used and the rates proposed to be changed. The City Clerk shall present such application to the City Council at the next succeeding meeting thereafter for action thereon.

Section 615.040. Implied Agreement of Applicants For Licenses — Right of City Council To Fix Rates, Suspend or Revoke Licenses.

Each applicant for a taxicab business license, by applying for such license or qualifying under this Article, shall be considered to have expressly agreed to comply with all the provisions of this Article or any other ordinance regulating the taxicab business, and to have agreed that the City shall have the right and authority to determine and fix reasonable rates to be charged for the services to be rendered by the holders of licenses under this Article, and to have further agreed that any violation of any provision of this Article shall render any license issued hereunder cancelable or revocable by the City Council at its discretion.

Section 615.050. Insurance Policies.

A. Each applicant for a taxicab business license or renewal of such license under this Article shall file with the City Clerk an insurance policy, to the satisfaction of the City Clerk and the Chief of Police, providing insurance coverage for each taxicab owned, operated or leased by the applicant and shall bind the obligor thereof to make compensation for injuries and/or death to persons and loss of or damage to personal property resulting from the negligent, lawful or unlawful operation of any vehicle operating at any time under the applicant's permit, whether such vehicle is licensed or not, in a combined sum of not less than three hundred thousand dollars ($300,000.00) per occurrence.

B. Every insurance policy required hereunder shall extend for a period covered by the license or renewal thereof applied for, and the insurer shall be obliged to give not less than thirty (30) days' written notice to the City Council and to the insured before cancellation or termination thereof earlier than its

expiration date, and the cancellation or other termination of any such policy shall automatically revoke and terminate the license issued for the taxicab business covered by such policy, unless another insurance policy complying with the provisions of this Section shall be provided and be in effect at the time of such cancellation or termination.

Section 615.060. Taxicab Vehicle Licenses — Required — Condition Precedent — Restriction On Number and When Excess Allowed.

No motor vehicle shall be placed in service as a taxicab until it has been licensed as a taxicab and until the owner or lessee thereof shall have been issued a taxicab business license by the City Council, and the number of vehicle licenses issued each year shall not exceed eighteen (18), provided that additional taxicab vehicle licenses may be issued upon a petition and application therefor presented to the City Council, when upon a hearing thereon a majority of the Council finds that the public convenience and necessity requires or will require such additional taxicab vehicle licenses to be issued.

Section 615.070. Taxicab Vehicle License — Contents of Application — Safety Inspection of Vehicles — Leased Vehicles — Liability of Licensee.

A. Each operator of a taxicab business shall file an application with the City Council showing the year, model, make, style, motor number and serial number of each vehicle proposed to be placed in service as a taxicab and showing from whom each vehicle was purchased and a list of all encumbrances or liens thereon; and he/she shall make each vehicle available to the Chief of Police to make an inspection to determine if it is a fit and safe vehicle to be placed in public service.

B. A taxicab business licensee may obtain a taxicab vehicle license in his/her name to operate a vehicle not owned by him/her if he/she presents with his/her application a copy of a written lease, duly filed with the City Clerk, between the owner of such vehicle and himself/herself by the terms of which the owner shall deliver unto him/her full and complete control and right of possession of such vehicle, and the taxicab business licensee shall assume full and complete responsibility and liability for any personal injuries, death or property damage due to the unlawful or negligent operation of such vehicle at any time during the term of such lease, which shall be irrevocable during the term of which such license is issued.

Section 615.080. Taxicab Vehicle License — Action By Chief of Police — Issuance of Vehicle License — How Taxicab To Be Marked.

If the Chief of Police, upon inspection of any vehicle, rejects it as unsafe, no license shall be issued therefor, but if he/she approves it, he/she shall endorse his/her approval on the application, and the taxicab business operator shall present the application to the City Clerk, together with the license fee required by this Article, and the City Clerk shall assign a license number to such vehicle and the licensee shall cause to be painted on each front door of such vehicle in letters and figures the following:

LICENSED CAB NO.

_____

(Insert License No. Here)

_____

(Insert the Name of Operating Company Owner)

The letters shall not be smaller than three (3) inches in height and the figures not be less than four (4) inches in height.

Section 615.090. Taxicab Vehicle License — Transfer of License Number — Fees Not Refundable.

A license number assigned to a vehicle taken out of service may be reassigned to a different vehicle placed in service by the same licensee, and the license issued for the vehicle taken out of service may be transferred to such other vehicle owned or leased by the same licensee, upon application made in the same manner as for the original license, but in no event will any license fee be refunded.

Section 615.100. Transferability of Licenses.

Licenses issued under this Article shall not be assignable or transferable, except as provided in this Article for the transfer of vehicle license numbers.

Section 615.110. Suspension or Revocation of License Upon Notice and Hearing.

All licenses issued under this Article may be suspended or revoked by the City Council for the violation of any of the provisions of this Article or any other ordinance regulating the taxicab business, after reasonable notice and hearing before the City Council, or if at any time the City Council shall find the operator or licensee no longer possesses the qualifications to retain such license.

Chapter 625. Peddlers and Solicitors

Section 625.010. Definitions.

As used in this Chapter, the following words have the meaning indicated:

CANVASSER

A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or

(2) distributing a handbill or flyer advertising a non-commercial event or service.

PEDDLER

A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of attempting to sell a good or service. A *"peddler"* does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit.

SOLICITOR

A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of (1) attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service, or (2) distributing a handbill or flyer advertising a commercial event or service.

Section 625.020. Exception.

This Chapter shall not apply to a Federal, State or local government employee or a public utility employee in the performance of his/her duty for his/her employer.

Section 625.030. Identification Card Required For Peddlers and Solicitors, Available For Canvassers.

No person shall act as a peddler or as a solicitor within the City without first obtaining an identification card in accordance with this Chapter. A canvasser is not required to have an identification card but any canvasser wanting an identification card for the purpose of reassuring City residents of the canvasser's good faith shall be issued one upon request.

Section 625.040. Fee.

A. The fee for the issuance of each identification card shall be:

1. For a peddler acting on behalf of a merchant otherwise licensed to do business within the City no fee.
2. For a peddler acting on behalf of a merchant not otherwise licensed to do business within the City: a fee of five dollars ($5.00) per day.
3. For a solicitor, including a commercial solicitor advertising an event, activity, good or service for purchase at a location away from the residence: no fee.
4. For a canvasser requesting an identification card: no fee.

Section 625.050. Application For Identification Card.

Any person or organization, formal or informal, may apply for one (1) or more identification cards by completing an application form at the office of the issuing officer during regular office hours.

Section 625.060. Contents of Application.

A. The applicant, person or organization shall provide the following information:

1. Name of applicant.
2. Number of identification cards required.
3. The name, physical description and photograph of each person for which a card is requested. In lieu of this information, a driver's license, State identification card, passport or other government-issued identification card issued by a government within the United States containing this information may be provided and a photocopy taken.
4. The permanent and, if any, local address of the applicant.
5. The permanent and, if any, local address of each person for whom a card is requested.
6. A brief description of the proposed activity related to this identification card. Copies of literature to be distributed may be substituted for this description at the option of the applicant.
7. Date and place of birth for each person for whom a card is requested and, if available, the social security number of such person.
8. A list of all infraction, offense, misdemeanor and felony convictions of each person for whom a card is requested for the seven (7) years immediately prior to the application.
9. The motor vehicle make, model, year, color and State license plate number of any vehicle which will be used by each person for whom a card is requested.
10. If a card is requested for a peddler:

a. The name and permanent address of the business offering the event, activity, good or service, i.e., the peddler's principal.

b. A copy of the principal's sales tax license as issued by the State of Missouri provided that no copy of a license shall be required of any business which appears on the City's annual report of sales tax payees as provided by the Missouri Department of Revenue.

c. The location where books and records are kept of sales which occur within the City and which are available for City inspection to determine that all City sales taxes have been paid.

11. If a card is requested for a solicitor:

a. The name and permanent address of the organization, person or group for whom donations or proceeds are accepted.

b. The web address for this organization, person or group, or other address where residents having subsequent questions can go for more information.

12. Any other information the applicant wishes to provide, perhaps including copies of literature to be distributed, references to other municipalities where similar activities have occurred, etc.

Section 625.070. Issuance of Identification Card.

A. The identification card(s) shall be issued promptly after application but in all cases within sixteen (16) business hours of completion of an application, unless it is determined within that time that:

1. The applicant has been convicted of a felony or a misdemeanor involving moral turpitude within the past seven (7) years,

2. With respect to a particular card, the individual for whom a card is requested has been convicted of any felony or a misdemeanor involving moral turpitude within the past seven (7) years, or

3. Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

Section 625.080. Investigation.

During the period of time following the application for one (1) or more identification cards and its issuance, the City shall investigate as to the truth and accuracy of the information contained in the application. If the City has not completed this investigation within the sixteen (16) business hours provided in Section 625.070, the identification card will nonetheless be issued subject, however, to administrative revocation upon completion of the investigation. If a canvasser requests an identification card, the investigation will proceed as described above, but if the City refuses to issue the identification card (or revokes it after issuance), the canvasser will be advised that the failure to procure an identification card does not prevent him/her from canvassing the residents of the City.

Section 625.090. Denial — Administrative Revocation.

If the issuing officer denies, or upon completion of an investigation revokes, the identification card to one (1) or more persons he/she shall immediately convey the decision to the applicant orally and shall within sixteen (16) working hours after the denial prepare a written report of the reason for the denial which shall be immediately made available to the applicant. Upon receipt of the oral notification and even before the preparation of the written report, the applicant shall have at his/her option an appeal of the denial of his/her application before the City Council at its next regular meeting.

Section 625.100. Hearing On Appeal.

If the applicant requests a hearing under Section 625.090, the hearing shall be held in accordance with the Administrative Procedure Act of the State of Missouri and review from the decision (on the record of the hearing) shall be had to the Circuit Court of the County in which the City is located. The hearing shall also be subject to the Missouri open meetings and records law.

Section 625.110. Display of Identification Card.

Each identification card shall be, when the individual for whom it was issued is acting as a peddler or solicitor, worn on the outer clothing of the individual as so to be reasonably visible to any person who might be approached by said person.

Section 625.120. Validity of Identification Card.

An identification card shall be valid within the meaning of this Chapter for a period of twelve (12) months from its date of issuance or the term requested, whichever is less.

Section 625.130. Revocation of Card.

A. In addition to the administrative revocation of an identification card, a card may be revoked for any of the following reasons:

1. Any violation of this Chapter by the applicant or by the person for whom the particular card was issued.

2. Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity.

3. Conviction of any felony or a misdemeanor involving moral turpitude within the last seven (7) years.

4. Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

The revocation procedure shall be initiated by the filing of a complaint by the City Attorney or the issuing officer pursuant to the State Administrative Procedure Act and a hearing before the Council identified in Section 625.090 above.

Section 625.140. Distribution of Handbills and Commercial Flyers.

A. In addition to the other regulations contained herein, a solicitor or canvasser leaving handbills or commercial flyers about the community shall observe the following regulations:

1. No handbill or flyer shall be left at or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way. The Police are authorized to remove any handbill or flyer found within the right-of-way.

2. No handbill or flyer shall be left at or attached to any privately owned property in a manner that causes damage to such privately owned property.

3. No handbill or flyer shall be left at or attached to any of the property (a) listed on the City "no visit" list, or (b) having a "no solicitor" sign of the type described in Section 625.150(1) and (2).

4. Any person observed distributing handbills or flyers shall be required to identify himself/herself to the Police (either by producing an identification card or other form of identification). This is for the purpose of knowing the likely identity of the perpetrator if the City receives a complaint of damage caused to private property during the distribution of handbills or flyers.

Section 625.150. General Prohibitions.

A. No peddler, solicitor or canvasser shall:

1. Enter upon any private property where the property has clearly posted in the front yard a sign visible from the right-of-way (public or private) indicating a prohibition against peddling, soliciting and/or canvassing. Such sign need not exceed one (1) square foot in size and may contain words such as "no soliciting" or "no solicitors" in letters of at least two (2) inches in height. The phrase "no soliciting" or "no solicitors" shall also prohibit peddlers and canvassers.

2. Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words "no soliciting" or "no solicitors" and which is clearly visible to the peddler, solicitor or canvasser.

3. Enter upon any private property where the current occupant has posted the property on the City's "no visit" list, except where the posting form indicates the occupant has given permission for this type of visit, regardless of whether a front yard sign is posted.

4. Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property.

5. Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.

6. Enter upon the property of another except between the hours of 9:00 A.M. and 8:00 P.M.

Except that the above prohibitions shall not apply when the peddler, solicitor or canvassers has an express invitation from the resident or occupant of a dwelling allowing him/her to enter upon any posted property.

Section 625.160. Violation To Be Prosecuted As Trespass — When.

Any person violating any part of this Chapter who shall enter upon private property without the consent of the owner of the property shall have committed a trespass on such property and shall be prosecuted under the general trespass ordinance of the City. The penalty for such violation shall be the same as for any other trespass.

Chapter 630. Adult Businesses

Section 630.010. Definitions.

For the purposes of this Chapter and unless the context plainly requires otherwise, the following definitions are adopted:

ADULT BUSINESS

Any business enterprise:

1. That has as a regular business purpose the sale, display or rental of goods that are designed for use in connection with "specified sexual activities", or that emphasize matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas"; or

2. That has one (1) of the following as a regular business purpose:

a. The providing of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display "specified anatomical areas" or "specified sexual activities"; or

b. The providing of services that provide "specified sexual activities" or "specified anatomical areas" ancillary to other pursuits, or allow participation in "specified sexual activities" ancillary to other pursuits.

3. The definition of "adult business" also includes, but is not limited to, any and all of the following as defined herein:

a. That offer the following described goods or merchandise for sale or rent:

(1) *"Adult retail establishment"* means an establishment which as a regular business purpose, displays or offers for sale or rent, any one (1) or more of the following: sexually-oriented toys or novelties, lingerie, leather goods designed or marketed for use for sexual bondage or sadomasochistic practices, instruments, devices, gifts or paraphernalia which are designed to use in connection with "specified sexual activities" or clothing that graphically depicts "specified anatomical areas" or any of the materials sold or rented in an adult bookstore as defined herein.

(2) *"Adult bookstore"* means an establishment which, as a regular business purpose, offers for sale or rent, books, magazines, periodicals or other printed matter, photographs, slides, films or videotapes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

(3) *"Adult media outlet"* means an establishment that has as a regular business purpose the rental, sale or offering for viewing off the premises or other use of any adult media.

(4) *"Adult news rack"* means any coin- or card-operated device that offers for sale by dispensing printed material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

(5) *"Adult newsstand"* means a freestanding structure, vehicle or booth which, as a regular business purpose, offers for sale, books, magazines, periodicals or other printed matter, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

b. Businesses that provide the following entertainment:

(1) *"Adult entertainment business"* means any enterprise to which the public, patrons or members are invited or admitted, and where providing "adult entertainment", as defined herein, is a regular portion of its business.

(2) *"Adult motion picture theater"* means an establishment containing a room with seats facing a screen or projection areas, where a regular portion of its business is the exhibition to customers of films, videotapes or motion pictures which are intended to provide sexual stimulation or sexual gratification to the customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

(3) *"Adult theater"* means an establishment located in an enclosed building where a regular portion of its business is providing the live performance of activities relating to "specified sexual activities" or exhibition of "specified anatomical areas" or live performers, for observation by customers and patrons.

(4) *"Adult entertainment cabaret"* means an establishment where a regular portion of its business is providing adult entertainment which features strippers, male or female impersonators, or live performances; or material which is primarily characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" or are intended to arouse or excite the sexual desires of the entertainer, other entertainer or patron.

(5) *"Adult entertainment studio"* (includes the terms rap studio, exotic dance studio, sensitivity studio or encounter studio) means an establishment whose premises is physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular portion of its business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to "specified sexual activities" or the exhibition of "specified anatomical areas".

(6) *"Adult encounter parlor"* means an establishment where a regular portion of its business is the provision of premises where customers congregate, associate, or consort with employees, performers, and/or other patrons or private contractors who display "specified anatomical areas" in the presence of such customers, with the intent of providing sexual gratification or stimulation to such customers.

(7) *"Body painting studio"* means an establishment where a regular portion of its business is the maintaining, operating, or offering for compensation the applying of paint or other substance to or on the human body by any means of application, technique or process when the subject's body is displaying for the customers view "specified anatomical areas".

c. Businesses that provide the following described services:

(1) *"Bathhouse"* means an enterprise where a regular portion of its business is offering baths and/or showers with other persons present who are nude or displaying "specified anatomical areas".

(2) *"Adult motel"* means an enterprise where a regular portion of its business is offering public accommodations for consideration for the purpose of viewing closed circuit television transmissions, films, motion pictures, video cassettes, magnetic tape, laser disc, CD-ROM, books, magazines or periodicals, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" and rents room accommodations for less than six (6) hours at a time.

(3) *"Escort service"* means the offer of accompaniment for hire of a male or female companion.

(4) *"Adult entertainment"* means any live exhibition, performance, display or dance of any type, including, but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernibly erect state, even if completely and opaquely covered.

(5) *"Adult media"* means books, magazines, periodicals, other printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films, CD-ROMs or other devices used to record computer images, or other media which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

(6) *"Adult video viewing booth"* means any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat customers or patrons and is used for presenting or viewing motion pictures or viewing publications which are distinguished or characterized by an emphasis on the depiction of "specified sexual activities" or "specified anatomical areas" by any photographic, electronic, magnetic tape, digital or other medium (including, but not limited to, film, video, magnetic tape, laser disc, CD-ROM, books, magazines or periodicals) for observation by customers or patrons therein. "Adult video viewing booths" are sometimes referred to as "peep shows", "adult video arcades", "panorams" and "adult mini-motion picture theaters". An "adult video viewing booth" shall not mean a theater, movie house, playhouse, or a room or enclosure or a portion thereof which contains more than one hundred fifty (150) square feet of gross floor area. Note: as of the date of the adoption of this definition, there are no known "adult video viewing booths" within the City, and the zoning ordinance specifically does not list this as a permitted use in any existing zoning district.

(7) *"Contagious and communicable diseases"* means those diseases which are set out in the Missouri Code of State Regulations, Department of Health, 19 C.S.R. 20-20.020, as amended.

(8) *"Employee"* means any and all persons, including managers, entertainers and independent contractors, who work in, or at, or render any services directly related to the operation of an adult business.

(9) *"Entertainer"* means any person who provides adult entertainment within an adult entertainment business as defined in this Section, whether or not a fee is charged or accepted for entertainment.

(10) *"Manager"* means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity at any adult business.

(11) *"Minor"* means any person less than eighteen (18) years of age.

(12) *"Nude or nudity"* means the appearance of the human bare buttocks, anus, human genitals, the areola or the nipple of the female breast or a state of dress which fails to opaquely or fully cover the anus, human genitals or the areola or the nipple of the female breast.

(13) *"Operator"* means any person operating, conducting or maintaining an adult business.

(14) *"Patron"* means any person who enters an adult business without regard to whether a purchase is made from the adult business or compensation is paid to the adult business or any employee of the adult business for merchandise, entertainment or service, provided that the term patron shall not include persons who enter an adult business for the sole purpose of providing service or merchandise to the adult business and who do not remain in the adult business after the purpose had been accomplished including, but not limited to, persons performing construction, repair or maintenance on the premises or delivering goods or merchandise to the adult business and any such similar activity.

(15) *"Person"* means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized.

(16) *"Premises"* means any place of business of an adult business which shall include the entire lot and building occupied by the adult business and any other property owned, leased or controlled by the adult business including any parking areas adjacent to the business which are regularly utilized by employees, entertainers, servers, managers or customers of such business.

(17) *"Public place"* means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

(18) *"Server"* means any person who serves food or drink at an adult entertainment business.

(19) *"Specified anatomical areas"* means:

(a) Uncovered or exposed human genitals, pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola encircling the nipple, or any combination of the foregoing; or

(b) Human male genitals in a discernibly erect state, even if completely and opaquely covered.

(20) *"Specified sexual activities"* means sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

(21) *"Sexually-oriented toys or novelties"* means instruments, devices or paraphernalia which either depict "specified anatomical areas" or are designed or marketed for use in connection with "specified sexual activities". In determining whether an item is "designed or marketed for use" in connection with "specified sexual activities", the following guidelines may be considered:

(a) Expert testimony as to the principal use of the item;

(b) Evidence concerning the total business of a person or business or a person or business establishment and the type of merchandise involved in the business;

(c) National and local advertising concerning the use of the item;

(d) Evidence of advertising concerning the nature of the business establishment;

(e) Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;

(f) The physical or structural characteristics of the item; or

(g) The matter in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.

Section 630.020. License Required For Adult Business.

A. It is unlawful for any person to operate or maintain an adult business in the City unless the owner, operator or lessee thereof has obtained an adult business license from the City, or to operate such business after such license has been revoked or suspended by the City.

B. It is unlawful for any operator or owner to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult business.

C. It shall be prima facie evidence that any adult business that fails to have posted an adult business license, in the manner required by this Section, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, server, employee, manager, operator or owner who performs any business, service or entertainment in an adult business, in which an adult business license is not posted in the manner required by this Section, had knowledge that such business was not licensed.

D. Any business enterprise that barters, sells or rents goods that are designed for use in connection with "specified sexual activities", or that emphasize matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" and that excludes minors by virtue of age from all or any part of the business premises shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate City Officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is an "adult business" as defined in this Chapter.

This entry and inspection shall take place during hours when such adult business is open to the public, unless otherwise required by the adult business, and shall not unreasonably interfere with the conduct of such business.

Section 630.040. License, Classification and Fees.

A. The license year for all fees required under this Chapter shall be from each July first (1st) through June thirtieth (30th). The application for a license shall be accompanied by payment in full of the fee stated in this Section by certified or cashier's check or money order; and no application shall be considered complete until such fee is paid.

B. All licenses shall be issued for a specific location and shall be non-refundable and non-transferable.

C. Adult business license fee is five hundred dollars ($500.00) per year

Section 630.050. License Limited To One Identifiable Type of Adult Use.

All adult business licenses shall be issued for only one (1) adult business use per premises which shall be listed on the application. More than one (1) adult business use shall not be allowed on any one (1) premises. Any change in the type of adult use shall invalidate the adult business license.

Section 630.060. License Application.

A. *Adult Business License.* All persons desiring to secure a license to operate an adult business under the provisions of this Chapter shall make a notarized application with the City Clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the adult business. All applications shall be signed by the applicant. If the applicant is a corporation, the application shall be signed by its President. If the applicant is a partnership, the application shall be signed by a partner. In all other instances where the owner is not an individual, where applicable, the application shall be signed by an authorized representative of the owner. The City Clerk may require proof of authorization before accepting an application. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

1. The name, residence address, home telephone number, occupation, date, place of birth and social security number of the applicant;

2. The tax identification number and registered agent if the owner is required to have a tax identification number or registered agent;

3. The name of the adult business, a description of the type of business to be performed on the licensed premises, and the name of the owner of the premises where the adult business will be located;

4. The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership or limited liability partnership; and if the applicant is a corporation or limited liability company, the same information for all corporate officers and directors and stockholders who own ten percent (10%) or greater interest in the corporation;

5. The residence addresses of the applicant, or of all partners, or of all corporate officers and directors for the five (5) years immediately prior to the date of application;

6. A description of the adult business history of the applicant, or of the partnership and all partners, or of the corporation and all corporate officers and directors;

7. A statement from the applicant, or from all partners, or from all such corporate officers and directors, whether any such person or entity, in previously operating in this or another City, County, or State, has had a business license of any type revoked or suspended, and if so, the reason therefore, and the activity or occupation subjected to such action, suspension or revocation;

8. A statement of the business, occupation or employment of the applicant, or of all partners, or of all corporate officers and directors for the three (3) years immediately preceding the date of the application;

9. A statement from the applicant, or from each partner, or from each corporate officer and director that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:

   a. Any felony within five (5) years immediately preceding the application, or

   b. A misdemeanor criminal act within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, promotion of prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act or other Statutes of the State of Missouri or ordinances of the City,

   c. The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics;

10. On applications requesting a license to operate a bathhouse or body painting studio, the applicant shall submit to the City Clerk within forty-eight (48) hours of the time for each person to begin working on the premises a health certificate from a duly licensed Missouri physician stating that within ninety (90) days prior thereto, the applicant and all other persons working the premises have been examined and found free of any contagious or communicable disease as defined herein. This shall be a continuing requirement and shall also initially apply to the applicant;

11. A full set of fingerprints and a photograph, to be taken by the Police Department, of the applicant, or of all partners if the applicant is a partnership, or of all such corporate officers and directors if the applicant is a corporation;

12. If the applicant is a corporation, a current certificate of registration issued by the Missouri Secretary of State;

13. A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Chapter regulating adult businesses. Failure to provide the information and documentation required by this Subsection shall constitute an incomplete application which shall not be processed.

B. *Facilities Necessary.* No adult business license to conduct a bathhouse or body painting studio shall be issued unless an inspection by the director of the Jasper County Health Department or his or her authorized representative reveals that the premises the applicant intends to conduct business from complies with each of the following minimum requirements:

1. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one (1) patron. Heavy, white paper may be substituted for sheets; provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.

2. Toilet facilities shall be provided in convenient locations. When five (5) or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one (1) time. Urinals may be substituted for water closets after one (1) water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

3. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The director of the Jasper County Health Department, or his or her representative, shall certify that the proposed business establishment complies with all of the requirements of this Section and shall give or send such certification to the City Clerk. Provided however, that nothing contained herein shall be construed to eliminate other requirements of Statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate City Official may recommend the issuance of a license contingent upon the compliance with any requirements in this Section.

C. *Application Processing.* Upon receipt of a complete application for an adult business license, the City Clerk shall immediately transmit one (1) copy of the application to the Chief of Police for investigation of the application.

1. It shall be the duty of the Chief of Police, or his or her designee, to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The Chief of Police shall report the results of the

investigation to the City Clerk not later than twenty (20) working days from the date the application is received by the City Clerk.

2. It shall be the duty of the City Clerk to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. The determination shall be completed not later than twenty (20) working days from the date the application is received by the City Clerk.

3. Upon receipt of the report from the Chief of Police, the City Clerk shall submit its report and that of the Chief of Police to the City for consideration; provided the license application for an adult business license shall be approved or disapproved within forty-five (45) days from the date of filing of a completed application with the City Clerk.

Section 630.070. Examination of Application — Issuance of License — Disapproval.

A. If the application for an adult business license is in proper form and accompanied by the appropriate license fee, the City Clerk shall examine the application, and after such examination, the City shall, if the applicant is qualified, approve a license as provided for by law; provided a license shall not be approved to any person ineligible pursuant to Section 630.080.

B. The record of the City shall show the action taken on the application, and if the license is granted, the City shall direct the City Clerk to issue the proper license. The license shall state that it is not transferable to other persons or entities and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working.

C. If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

Section 630.080. Licenses — Ineligibility and Disqualification.

A. No person is eligible nor shall a license be issued to:

1. An adult business applicant if one (1) or more of the following conditions exist:

a. The applicant's premises is located within one thousand (1,000) feet of any school, church, public park, licensed child care center, child day care, or licensed child care home. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the premises on which the applicant's business would be operated to the nearest point on the property line of such school, church, public park, licensed child care center, licensed day care center, or licensed child care home;

b. The applicant's premises is located within one thousand (1,000) feet of any other adult business for which there is a license issued. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the premises on which the applicant's business would be operated to the nearest point on the property line of such other adult business;

c. The applicant's premises is located within one thousand (1,000) feet of any residentially zoned property. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the premises on which the applicant's

business would be operated to the nearest point on the property line of the residentially zoned property;

d. In the case of an application for an adult business license for a business use defined in Section 630.010 described as adult entertainment business, adult motion picture theater, adult entertainment cabaret, adult entertainment studio, adult encounter parlor, body painting studio, bathhouse or adult motel, the applicant's premises is located within one thousand five hundred (1,500) feet of any residentially zoned property. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the premises on which the applicant's business would be operated to the nearest point on the property line of the residentially zoned property;

e. The applicant failed to supply all of the information requested on the application;

f. The applicant gave materially false, fraudulent or untruthful information on the application;

g. The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, provided that upon a showing the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the City;

h. The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in Section 630.060(A)(8) during the time period set forth in said Section;

i. The applicant has had an adult business or comparable license revoked or suspended in this or any other City during the past five (5) years;

j. If the applicant is applying for a license to operate a bathhouse or body painting studio and has not produced a health certificate as required herein for all persons working on the premises.

Section 630.090. Standards of Conduct.

A. The following standards of conduct shall be adhered to by all adult business licensees, their employees and all managers, servers and entertainers and patrons of adult businesses, while on or about the premises of the business:

1. *Age restriction.* Only persons eighteen (18) years of age or older shall be permitted on the premises of any adult business.

2. *Exterior observation and display.* The premises of all adult businesses will be so constructed to include an anteroom, foyer, partition or other physical barrier on all customer entrances that will ensure that the interior of the premises is not observable from the exterior of the building. In addition, all windows or other openings shall be covered to prevent viewing of the interior of the premises from the outside. All doorways not constructed with an anteroom or foyer will be covered in order to prevent observation of the interior of the premises from the exterior of the building. Additionally, no adult business will be conducted in any manner that permits from any exterior source by display, decoration, sign, show window or other opening the observation of live performers engaged in an erotic depiction, dance, or material, or persons depicting, describing or relating to specific sexual activities or specified anatomical areas as defined herein.

3. *Nudity prohibited.* No manager, server, employee, entertainer or patron in an adult business, other than a licensed bathhouse, shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any "specified anatomical areas".

4. *Certain acts prohibited.*

a. No manager, employee, server, entertainer or patron shall perform any "specified sexual activities" as defined herein, wear or use any device or covering exposed to view which simulates any "specified anatomical area", use artificial devices or inanimate objects to perform or depict any of the "specified sexual activities" as defined herein, or participate in any act of prostitution.

b. No manager, employee, server, entertainer or patron of an adult business shall knowingly touch, fondle or caress any "specified anatomical area" of another person, or knowingly permit another person to touch, fondle or caress any "specified anatomical area" of such manager, employee, server, entertainer or patron, whether such "specified anatomical areas" are clothed, unclothed, covered or exposed.

c. No manager, employee, server or entertainer of an adult business shall be visible from the exterior of the adult business while such person is unclothed or in such attire, costume or clothing as to expose to view any "specified anatomical area".

d. No entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this Chapter and no entertainer shall receive any payment or gratuity from any customer for any entertainment except as follows:

(1) While such entertainer is on the stage or platform, a customer or patron may place such payment or gratuity into a box affixed to the stage; or

(2) While such entertainer is not on the stage or platform and is clothed so as to not expose to view any "specified anatomical area", a customer or patron may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four (4) inches below the bottom of the pubic region.

e. No owner, operator, manager, other person in charge of the premises, or employee of an adult entertainment business shall:

(1) Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises (unless otherwise permitted pursuant to this Code);

(2) Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;

(3) Knowingly allow or permit any person under the age of eighteen (18) years of age to be in or upon the premises;

(4) Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises;

(5) Knowingly allow or permit a violation of this Chapter or any other City ordinance provision or State law.

5. *Signs required.* All adult businesses shall have conspicuously displayed in the common area at the principal entrance to the premises, a sign visible from the exterior of the premises on which uppercase letters shall be at least two (2) inches high and lowercase letters at least one (1) inch high, which shall read as follows:

THIS BUSINESS IS AN ADULT BUSINESS. ONLY PERSONS EIGHTEEN (18) YEARS OF AGE OR OLDER SHALL BE PERMITTED ON THE PREMISES.

THIS ADULT BUSINESS IS REGULATED AND LICENSED BY THE CITY OF CARTERVILLE; ENTERTAINERS ARE:

- Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.
- Not permitted to be nude, unclothed, or in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals.
- Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows: While such entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage, or while such entertainer is not on the stage, by either placing such payment or gratuity into the entertainer's hand, or under the entertainer's leg garter.

CUSTOMERS ARE:

- Not permitted to be upon the stage at any time.
- Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.

6. *Lighting required.*

a. The interior premises of all adult businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1) foot-candle, as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

b. The exterior premises of all adult businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination equivalent to not less than one (1) foot-candle in all parking areas and on the general grounds of the premises as measured at the ground level, and there shall be illumination to the equivalent of not less than five (5) foot-candles as measured at the ground level at each entrance and doorway area, and such illumination must be maintained at all times that any customer or patron is present on the premises.

7. *Closed booths or rooms prohibited.*

a. The premises of all adult businesses shall be physically arranged in such manner that the entire interior portions of the premises and of any booths, cubicles, rooms or stalls are visible from a common area of the premises. The use of video cameras to meet this requirement is not allowed. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever. "Adult video viewing booths" are prohibited, whether or not the booth is visible from a common area of the premises. The manager shall be required to position himself or herself so as to be able to view the entire interior portion of the premises while on duty.

b. Only one (1) person shall be allowed in any booth, cubicle or stall at a time. Such booths, cubicles or stalls shall be constructed out of metal or such other material that is incapable of perforation by any customer, employee, entertainer, server or manager on the premises. Other than the entryways, there shall be no openings, holes, access doors or any other manner of accessibility between any booth, cubicle, room or stall and any other booth, cubicle, room or stall.

8. *Ventilation and sanitation requirements.* The premises of all adult businesses shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.

9. *Hours of operation.* No adult business may be open or in use between the hours of twelve Midnight (12:00 A.M.) and ten A.M. (10:00 A.M.) on any day other than a Sunday when the business may not be open between the hours of twelve Midnight (12:00 A.M.) and twelve noon (12:00 P.M.), or between the hours of twelve A.M. (12:00 A.M.) and eleven fifty-nine P.M. (11:59 P.M.) on public holidays as defined in Section 9.010, RSMo.

10. *Facilities necessary.* No adult business license to conduct a bathhouse or body painting studio shall be issued unless an inspection by an appropriate City Official reveals that the premises on which the applicant intends to conduct such business complies with each of the following minimum requirements:

a. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given or showers taken. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business' operation shall be maintained in a clean and sanitary condition. Towels, linen, and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one (1) patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No activity related to an adult business shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.

b. Toilet facilities shall be provided in convenient locations. Toilets shall be designated as to the sex accommodated therein.

c. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

An appropriate City Official shall certify that the proposed business establishment complies with all of the requirements of this Section and shall give or send such certification to the City Clerk. Provided however, that nothing contained herein shall be construed to eliminate other requirements of Statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate City Official may recommend the issuance of a license contingent upon the compliance with any requirements in this Section.

Section 630.100. License, Posting or Display.

Every person, corporation, partnership, or association licensed under this Chapter as an adult business shall post such license in a conspicuous place and manner on the adult business premises.

Section 630.110. Manager On Premises.

A. A manager shall be on duty at any adult business at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours.

B. It shall be the responsibility of the manager to insure persons under the age of eighteen (18) do not enter upon the premises.

Section 630.120. Inspector and Inspections.

All adult businesses shall permit representatives of the Police Department or any other City Official acting in their official capacity to inspect the premises as necessary to ensure the business is complying with all applicable regulations and laws.

Section 630.130. Suspension, Revocation or Non-Renewal of License.

A. Whenever the City Clerk has information that:

1. The owner or operator of an adult business license has violated or knowingly allowed or permitted the violation of any of the provisions of this Chapter; or

2. There have been recurrent violations of provisions of this Chapter that have occurred under such circumstances that the owner or operator of an adult business knew or should have known that such violations were committed; or

3. The adult business license was obtained through false statements in the application for such license, or renewal thereof; or

4. The adult business licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or

5. The owner or operator or any partner or any corporate officer or director holding an adult business license has become disqualified from having a license by a conviction as provided in Section 630.080; then the City Clerk shall make this information known to the City Council, which upon five (5) days' written notice to the person holding the license, shall conduct a public hearing to determine whether the license should be suspended or revoked. The City Council may pass a resolution setting forth the procedures for the conduct of such hearings. Based on the evidence produced at the hearing, the City Council may take any of the following actions:

   a. Suspend the license for up to ninety (90) days;

   b. Revoke the license for the remainder of the license year; or

   c. Place the license holder on administrative probation for a period of up to one (1) year, on the condition that no further violations of the Chapter occur during the period of probation. If a further violation does occur and after a hearing the additional violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

Section 630.140. Notice and Hearing Procedure.

A. In any instance in this Chapter wherein a hearing is required, the Governing Body shall, after no less than ten (10) days' written notice to the applicant or licensee, hold such hearing to ascertain all facts in the matter.

B. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the licensee and shall be served upon the licensee in person or by registered or certified mail to the licensee's last known address. In the event that the Governing Body is unable to serve the adult entertainment business licensee in person, and any notice sent by mail is returned by the postal service, the Governing Body shall cause such notice to be posted at the principal entrance of the adult entertainment business and such posting shall be a valid means of service.

C. At such hearing, an applicant or licensee shall have full right to be represented by counsel, to produce witnesses and other evidence, and to cross-examine all witnesses who appear against him or her. Oral evidence shall be taken only upon oath or affirmation. All proceedings in such hearing shall be recorded and transcribed as required by law. The Governing Body may receive evidence relevant to the issues from the applicant or licensee. Witnesses may be subpoenaed, and upon request of any party, the Governing Body shall issue subpoenas, and in the proper case, subpoenas duces tecum, which shall be served and returned as in civil actions in Circuit Court.

D. The Governing Body shall issue findings of fact and conclusions of law, and an order wherein it dismisses the complaint, or suspends or revokes the license previously issued. The Governing Body's order shall be served upon the applicant or licensee in person or by registered or certified mail to the applicant's or licensee's last known address. In the event that the Governing Body is not able to serve such order upon the licensee or applicant for renewal license in the manner stated above, such order may be served by posting such order at the principal entrance of the adult entertainment business and such posting shall be a valid means of service.

Section 630.150. Renewal.

A. A license may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses shall expire on June thirtieth (30th) of each calendar year, and renewal applications for such licenses shall be submitted between June fifteenth (15th) and June thirtieth (30th).

B. Upon timely application and review as provided for a new license, a license issued under the provisions of this Chapter shall be renewed by issuance of a new license in the manner provided in this Chapter.

C. If the application for renewal of a license is not made during the time provided in Subsection (A) of this Section, the expiration of such license shall not be affected, and a new application shall be required.

Section 630.160. Judicial Review — Stay of Enforcement of Orders.

Following the entry of an order by the City Council suspending or revoking a license issued pursuant to this Chapter, or the City Clerk disapproving the renewal application for a license, such licensee or applicant may seek judicial review in a manner provided by law. The City Council may stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

Section 630.170. Penalty.

It is unlawful for any person to violate any of the provisions of this Chapter. Upon conviction thereof, such person shall be punished by a fine not to exceed five hundred dollars ($500.00), or be punished by incarceration for a period not to exceed ninety (90) days, or by both such fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this Chapter shall constitute a separate and distinct offense.

Section 630.180. Severability.

If any Section, Subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter, or the application thereof to any circumstances, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter.

Chapter 635. Medical Marijuana Businesses

Section 635.010. Purpose.

The purpose and intent of this chapter is to regulate the location, establishment and operation of all medical marijuana facilities in order to ensure the health, safety and general welfare of the residents of the City of Carterville. This is a unique land use with ramifications not addressed by more traditional zoning district regulations. Additional regulations in this section are intended to provide reasonable restrictions within districts so that these uses do not compromise the health, safety and general welfare of persons in

the district, or other uses allowed in each district. The regulations in this chapter do not address a patient's right to use medical marijuana as authorized under State Law; nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under State Law; nor do they regulate or govern residential cultivation, as authorized by State law, for a qualifying patient who uses medical marijuana for medicinal purposes. Nothing in this Chapter purports to permit activities that are otherwise illegal under state or local law. Under State Law, only qualifying patients and primary caregivers, with State issued identification cards may possess or cultivate medical marijuana unless the marijuana is cultivated or possessed by a State licensed medical marijuana facility as defined below.

Section 635.020. Definitions.

For the purposes of this Chapter and unless the context plainly requires otherwise, the following definitions are adopted:

MARIJUANA OR MARIHUANA

"Marijuana" or "Marihuana" means *Cannabis Indica, Cannabis sativa,* and *Cannabis ruderalis,* hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "Marihuana "do not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

MARIJUANA INFUSED PRODUCTS

"Marijuana-Infused Products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

MEDICAL MARIJUANA CULTIVATION FACILITY

"Medical Marijuana Cultivation Facility" means a facility licensed by the Missouri Department of Health and Senior Services, to acquire, cultivate, process, store, transport, and sell marijuana to a Medical Marijuana Dispensary Facility, Medical Marijuana Testing Facility, or to a Medical Marijuana-Infused Products Manufacturing Facility.

MEDICAL MARIJUANA DISPENSARY FACILITY

"Medical Marijuana Dispensary Facility" means a facility licensed by the Missouri Department of Health and Senior Services, to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a Qualifying Patient, a Primary caregiver, another Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or a Medical Marijuana-Infused Products Manufacturing Facility.

MEDICAL MARIJUANA FACILITY

"Medical Marijuana Facility" means any facility that is regulated by the State of Missouri to acquire, certify, cultivate, deliver, dispense, manufacture, process, sell, store, test, transport or warehouse medical marijuana including a Medical Marijuana Cultivation Facility, a Medical Marijuana Dispensary Facility, a Medical Marijuana-Infused Product Manufacturing Facility, and a Medical Marijuana Testing Facility.

MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING FACILITY

“Medical Marijuana-Infused Products Manufacturing Facility” means a facility licensed by the Missouri Department of Health and Senior Services, to acquire, store, manufacture, transport, and sell marijuana used products to a Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or to another Medical Marijuana-Infused Products Manufacturing Facility.

MEDICAL MARIJUANA TESTING FACILITY

“Medical Marijuana Testing Facility” means a facility certified by the Missouri Department of Health and Senior Services, to acquire, test, certify, and transport marijuana.

MEDICAL MARIJUANA USE

“Medical Marijuana use” means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a Qualifying Patient, as defined under the regulations of the Missouri Department of Health and Senior Services, to mitigate the symptoms or effects of the patient's qualifying medical condition.

Section 635.030. Use Regulations for Medical Marijuana Facilities.

The following Use Table lists how Medical Marijuana Facilities are regulated in the various zoning districts. Within the table, the user can identify the type of Medical Marijuana Facility and how the facility is regulated under each zone – thus identifying whether the use is permitted (P), whether it requires a conditional use permit (C), or whether it is prohibited.

Use	R1	R2	C	M	IND	INS	O
Medical Marijuana Cultivation Facility	NA	NA	C	NA	P	NA	NA
Medical Marijuana-Infused Products Manufacturing Facility	NA	NA	C	NA	P	NA	NA
Medical Marijuana Testing Facility	NA	NA	P	C	P	NA	NA
Medical Marijuana Dispensary Facility	NA	NA	P	P	P	NA	NA
Other Medical Marijuana Related Facility (a facility not specifically listed above but engaging in one or more of the activities of a Medical Marijuana Facility).	NA	NA	C	C	C	NA	NA

Section 635.040. Site Requirements for Medical Marijuana Facilities.

A. All Medical Marijuana Facilities shall comply with the following site requirements:

1. The facility shall comply with all regulations issued by the Missouri Department of Health and Senior Services for Medical Marijuana Facilities. If the State's requirement is more restrictive than the City's requirement, then the more restrictive requirement applies.

2. The facility shall be monitored at all times by an Internet-based closed-circuit television for security purposes. The camera and recording system shall be a minimum of 1080P resolution, color rendition and resolution to allow the ready identification of any individual committing a crime anywhere on or adjacent to the facility. There shall be sufficient cameras to cover all entrances, exits, storage areas, sales floor, purchasing areas along with all perimeter walls of the business and parking lots or parking areas immediately adjacent to the building. The recordings shall be maintained for a period of not less than ninety (90) days, have off site redundant backup and shall be made available to law enforcement authorities upon request.

3. The facility shall have a fireproof vault or safe that is incorporated into and securely attached to the building structures concrete for the purpose of securely storing cash and any processed marijuana.

4. The facility shall have a centrally monitored fire and burglar alarm system.

5. The exterior building lighting and parking area of the facility, if any, shall be equipped with lighting fixtures of sufficient intensity to illuminate all interior areas of the lot with an illumination of not less than one and a half (1.5) foot-candles evenly distributed as measured at floor level. These light fixtures shall be turned on from dusk to dawn.

6. The facility shall not use any equipment or process that creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.

7. No person or facility shall dispose of Marijuana or Marijuana-Infused Products in an unsecured waste receptacle not in possession and control of the licensee and designed to prohibit unauthorized access.

8. The facility, except for a Medical Marijuana Dispensary or a Medical Marijuana Testing Facility, shall have an odor mitigation system that uses activated carbon filters, an ozone generator, UV light exposure, UV-C air disinfection, or other similar odor mitigation technology.

9. All facilities, except a Medical Marijuana Dispensary, shall have an armed security guard on the premises at all times.

10. The facility shall display its state issued license on the interior of the facility, visible to the public, at all times.

11. The facility shall not allow on-site consumption of marijuana or marijuana-infused products on the premises at any given time.

12. The facility shall not have a sign unless it is a Medical Marijuana Dispensary.

13. At the facility, any and all cultivation, processing, storage, display, sales or other distribution of marijuana shall occur within an enclosed building and shall not be visible from the exterior of the building.

B. A Medical Marijuana Dispensary Facility shall comply with the following additional site requirements:

1. The facility shall be located and operated from a permanent and fixed structure and may not be located in a trailer, cargo container or motor vehicle and the structure shall not be mobile or operate from a transitory location.

2. The facility shall not provide delivery services for any of its products unless otherwise allowed by State law.

3. The facility shall be allowed to sell to a qualifying patient or primary caregiver, as defined by Missouri law, devices, contrivances, instruments, and paraphernalia for inhaling or otherwise consuming marijuana including, but not limited to rolling papers, and related tools, water pipes, and vaporizers.

4. The facility shall display a sign on the interior of the facility indicating that a patient identification card or primary caregiver identification card, issued from the Missouri Department of Health and Senior Services, is required and must be presented to purchase Medical Marijuana and Marijuana Infused Products.

5. The facility shall not sell to customers who are in cars or who consume the sold products in cars parked on the facility, nor shall it sell products through a sales window, to customers who are in cars, for the immediate consumption by the customer either on or off the premises.

6. The facility's hours of operation shall be limited to 8:00 a.m. to 8:00 p.m., Sunday through Saturday.

7. The facility shall not erect or use any freestanding signage and shall not have any temporary signage. All signs shall have appropriate permits prior to installation.

8. The facility shall only be allowed wall signs and no signs shall extend above the roof of the building or extend more than fifteen (15) feet in height above grade.

9. The windows and doors of the facility shall not be covered by boards, mesh, grates, materials or coverings of any kind, except proper blinds and curtains.

10. The facility shall not have cord or rope type LED lighting surrounding or framing its windows or doors.

C. Spacing Requirements.

1. Medical Marijuana Dispensaries shall be required to be a minimum distance of five hundred (500) ft from schools and one hundred (100) ft between Churches Parks & child care facilities.

2. There shall be a minimum distance between Marijuana Dispensaries of one thousand (1000) ft.

3. Manufacturing / processing facilities shall be a minimum of 1000 ft from Schools, Churches, Parks & child care facilities.

4. This measurement shall be measured by walking distance from the closet point between structures.

Section 635.050. Severability.

If any section, subsection, sentence, clause, phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provisions, and such holding shall not affect the validity of the remaining portions thereof.

Section 635.060. Violation - Penalty.

Any person who shall violate a provision of this Chapter, specifically those codes adopted in Sections 635.010, 635.020, 635.030, 635.040 of this Chapter shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Chapter 700. City Utilities General Provisions

Section 700.010. Duty of City To Manage and Control City-Owned Public Utilities, Etc.

The City shall take charge of and exercise full control over the waterworks and other public utilities owned by the City and all appurtenances thereto belonging, and shall enforce the performance of all contracts and work, and have charge and custody of all books, property and assets belonging or appertaining to such public utilities.

Section 700.020. Assessment and Collection of Rates for Water and Other Public Utility Services.

A. The assessment and collection of rates for water and for the production or service of any other plant or works which the City may own or operate shall be under the control and supervision of the City; and in the process of operating any utility as herein provided, it shall be the duty of the City, through its agents and employees, to collect all sums due for services rendered and on all accounts in connection with the operation of such utility, such sums to be deposited in the City's public utility account(s).

B. Water, sewer, and trash services will be billed together and calculated at the end of each month and shall include any fees, taxes, penalties, and outstanding previous balances in addition to current consumption for that month. Bills will be sent out the first week of the following month and will be due upon receipt. Late fees will be assessed at the rate of (ten) 10% of the balance due beginning on the 20th day of the month by the time City Hall closes at 4pm and disconnection of service will occur on the 25th of each month for failure to pay. An administrative fee in the amount of thirty-five dollars ($35.00) will be assessed on the 25th regardless if water service was disconnected. Water service shall not be disconnected until all past-due bills are paid in full. If water service is disconnected, a reconnection fee of thirty dollars ($30.00) will be assessed to restore water service.

C. Whatever remains in the public utility account at any time, and whatever may accrue therein, shall be at the disposition of the City solely for the operation of City-owned or operated public utilities, making improvements thereof and betterment and extensions thereto, and to do all things that in their judgment is for the best interest of the City and the public generally, and for the further purpose of paying all interest and demands on account of the indebtedness incurred for the purchase of any utility by the City and to pay on the principal thereof, as the case may be; it being the spirit and intent of this Section to accumulate a fund for the discharge of the general purchase price of utilities as speedily as may be consistent with good operation of the system and good service to the public, and that this fund shall be at the disposition of the City solely for the above purposes.

D. In the event of a suspected billing error, equipment malfunction, or water loss attributable to the City's infrastructure or actions, the City Administrator or their designee shall have the authority to adjust the affected customer's water bill up to Five Hundred Dollars ($500) per account per circumstance without requiring Finance Committee approval. Adjustments may include prorated billing, estimated usage based on historical averages, or waiving late fees or penalties, as deemed reasonable. All adjustments shall be documented in writing, including the nature of the issue and basis for the adjustment, and reported to the Finance Committee on a monthly basis for transparency and oversight.

E. If a customer experiences a verified water leak on their property that does not result in water entering the sanitary sewer system, the City Administrator or their designee may authorize a sewer usage adjustment for the billing period affected. The adjustment shall be calculated using the customer's historical average sewer usage for similar periods. For new customers without sufficient billing history, the sewer adjustment shall be based on the average residential sewer usage for similar-sized households or comparable properties within the

same billing cycle. The City Administrator or their designee shall determine a reasonable estimate using available data. To qualify for a sewer adjustment, the customer must:

1. Provide proof of leak repair (e.g., plumber's invoice, receipt for parts, or photo evidence).
2. Submit a written request for an adjustment within 60 days of the billing date in question.

All adjustments must be documented and reported to the Finance Committee monthly.

F. Owner and user jointly and severally liable for bills. The property owner shall be responsible for any utility charges or fees left unpaid by any tenant upon the premises served by water or sewer utility and the liability for such service shall be joint and several between landlord and the tenant. Where the landlord or property owner fails to pay utility charges, the City may refuse to provide any utility service to the property with a delinquent charge, even in the name of subsequent tenants or new owners of the property, and may refuse to provide service to any individual in whose name the delinquent account was in. Upon written request, the City shall send a duplicate bill each month to the landlord so that the landlord can determine, to his/her satisfaction, that the bill is paid. The liability of the landlord for services to the tenant shall be limited services provided for the previous ninety (90) days, Section 250.140, RsMo. In addition, the City shall have the power to sue the applicant, tenant, landlord, or owner of such real estate in a civil action to receive any sums due for such service, plus a reasonable attorney's fee, fixed by the Court, and may file a lien or special tax bill against the real estate to secure such services. Reasonable attorney's fees and the cost of recording such lien shall also be included in such special tax bill.

G. Services not to be provided to vacant buildings unless inspected. Notwithstanding anything contained in the Code of Ordinances of the City of Carterville, Missouri, no municipal water or sewer services shall be provided to any residential structure in the City of Carterville if such structure has been vacant for ninety (90) days or more, unless such structure shall be inspected by and shall pass all required City building and/or housing codes.

Section 700.030. Safety of City and Utility Company Employees.

A. In the process of operating a City-owned or operated public utility, whether such utility is owned or operated directly by the City or under the City's control through a franchise agreement or contract with a private utility company, the City is vested with full power and authority to make such maintenance, repairs, replacements, additions or extensions of service as the City or its assignee may deem proper for the public good and to employ such labor and provide for such material as may be necessary.

B. While in the process of making such maintenance, repairs, replacements, additions or extensions to City utility services or while reading meters, collecting data, inspecting utility lines and connections or maintaining and clearing utility easements, officers, employees and agents of the City or private utility companies under contract with the City shall have the right and authority to enter onto private property for the purposes described herein.

C. Any person who constructs, erects or maintains an obstruction, hindrance or hazard which blocks, impedes or restricts access onto private property necessary for any such officer, employee or agent to perform duties described in Subsection (B) shall be deemed guilty of maintaining a nuisance under Section 220.010 of this Code. This provision shall be construed specifically to include, but is not limited to, persons who chain, fence or keep dogs near utility meters or who fail to keep the area near utility meters free from dogs, thereby hindering or impeding access to the meter.

Section 700.040. Entry Onto Premises Permitted.

A. The Public Works Director, Building Inspector and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Article. The Public Works Director, Building Inspector or their representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for water treatment.

B. While performing the necessary work on private properties referred to in Subsection (A) above, the Public Works Director, Building Inspector or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to City employees. The City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the many to maintain safe conditions as required by this code.

C. The Public Works Director, Building Inspector and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the public works infrastructure lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Section 700.050. Prohibited Acts Generally.

It shall be unlawful for any person to obstruct in any way, or to uncover the water or sewer lines in the City for any purpose, or to make connections therewith, or uncover the connection branches thereof, unless and except by the consent and under the direction and supervision of the Public Works Director or other duly authorized employees of the City.

Section 700.060. Protection From Damage.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the water or sewer works. Any person violating this provision shall be subject to immediate arrest under charge of damaging public property.

Section 700.070. Penalties.

A. Any person found to be violating any provision of this Article except Section 700.060 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

B. Any person who shall continue any violation beyond the time limit provided for shall be guilty of a misdemeanor and, on conviction thereof, shall be fined in an amount not exceeding five hundred dollars ($500.00) for each violation. Each day in which any such violations shall continue shall be deemed a separate offense.

C. Any person violating any of the provisions of this Article shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation. In the event that civil action is taken by the city to recover damages, the city reserves the right to recoup legal fees if judgement is in the city's favor.

Section 700.080. Power of City To Condemn Private Property.

The City Council shall have power to condemn private property for public use, occupation or possession in the construction and repair of public and private sewers and water systems in the same manner as other property is condemned within the City for public use.

Section 700.090. City Utility Services Outside The Corporate Limits.

A. By resolution adopted by the City Council, utility services including, but not limited to, water, sewer and solid waste disposal may be provided to uses outside the corporate limits of the City. Services may be provided to users residing within the corporate limits of another municipality only upon the express written consent of said municipality.

B. Bulk water sales or sewage collection outside of the corporate limits of the City may pay a user charge of one hundred fifty percent (150%) times the charge paid by users within the corporate limits or an amount as set by contract.

C. Users outside the corporate limits of the City who are hereby provided City utility service shall conform with and abide by all applicable provisions of the City Code, administration policies, rules and regulations.

Chapter 705. Water Service

Section 705.010. Connection of Water Service To A Residence.

A. The deposit collected by the City of Carterville for connection of water service to an owner-occupied residence shall be one hundred fifty dollars ($150.00).

B. The deposit collected by the City of Carterville for connection of water service to a non-owner-occupied residence shall be two hundred dollars ($200.00).

Section 705.020. Prohibited Acts With Respect To City Water Services.

It shall be unlawful for any person not authorized by the City to do so to open or close any fire hydrant or turn on or cut off water at the curb cutoff, or attach or connect any hydrant or other appliance to any water service pipe between the water main and the meter, or in any way tamper with, break, injure or destroy any fire hydrant, curb box, curb cutoff or water meter.

Section 705.030. Rates For Potable Water Service and Consumption.

A. Section 70S.030. "Rates for Potable Water Service and Consumption", to now read as:

Upon recommendation by the City Council concerning the costs and expenses associated with potable water service and the user charge rates necessary to recover those costs and expenses, the City of Carterville, Missouri, has determined that it is necessary to periodically increase the monthly charge assessed users for potable water service. The rates charged by the City of Carterville, Missouri for potable water service and consumption are hereby established as set forth in this Table.

WATER RATE TABLE:

Residential Customers (In City)	
First 748 gallons Each gallon thereafter	$23.24 inclusive $0.00630997 per gallon
Bulk Water Sales	
First 748 gallons Each gallon thereafter	$34.86 inclusive $0.00946496 per gallon

Section 705.040. Monthly Billing For Potable Water

All users shall be billed monthly with the water charges representing a portion of the total utility bill.

Billings for any particular month shall be made within twenty (20) days after the end of that month. Payments are due when the billings are made. Any payment not received within twenty (20) days after the billing is made shall be delinquent. Bills not paid by the 25th day of the month are subject to a non-refundable administrative fee of $35.00 added to their balance. And a $30 reconnection fee if their water service is disconnected.

Section 705.050. Connection Charge for New Services.

All New connections to the city's water system will require a connection or "tap" fee as well as an inspection, both to be paid in advance before water will be provided. Upon payment, the city will generate a work order to have the connection made at the earliest possible opportunity and a customer account may be created at that time. The following fees include the tap, meter, meter pit, meter lid, and resetter.

5/8" will be a minimum of five hundred fifty-three dollars and fifty cents ($553.50) and will be increased according to cost to the city. plus, a fifty dollars ($50) inspection fee.

1" will be a minimum of nine hundred and eight dollars ($908.00) and will be increased according to cost to the city. plus, a fifty dollars ($50) inspection fee.

2" and above will be a minimum of three thousand six hundred and one dollars ($3,601) and will be increased according to cost to the city. plus, a fifty dollars ($50) inspection fee.

Chapter 710. Cross-Connection Control

Section 710.010. City Water Supply Cross-Connection Control — General Policy.

A. The purpose of City water supply cross-connection control is:

1. To protect the public potable water supply from contamination or pollution by containing within the consumer's internal distribution system or private water system contaminants or pollutants which could backflow through the service connection into the public potable water supply system.

2. To promote the elimination, containment, isolation or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures, and industrial-process systems.

3. To provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

B. Section 710.010 through and including Section 710.070 shall be known as the "Cross-Connection Control Policy". The Cross-Connection Control Policy shall apply to all premises served by the public potable water system of the City.

C. The Cross-Connection Control Policy will be reasonably interpreted by the City Council of the City. It is the City's intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard. The Public Works Board shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow or contaminants or pollutants through the water service connection. The cooperation of all consumers is required to implement and maintain the program to control cross connections. The City and consumer are jointly responsible for preventing contamination of the water system. If, in the judgment of the City or its authorized representative, cross-connection protection is required through either piping modification or installation of an approved backflow prevention device, due notice shall be given to the consumer. The consumer shall immediately comply by providing the required protection at his/her own expense; and failure, refusal or inability on the part of the consumer to provide such protection shall constitute grounds for discontinuing water service to the premises until such protection has been provided.

Section 710.020. Definitions.

The following definitions shall apply in the interpretation and enforcement of the cross-connection control ordinance:

AIR-GAP SEPARATION

The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the overflow level rim of the receptacle and shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel, but in no case less than one (1) inch.

AUXILIARY WATER SUPPLY

Any water source or system, other than the public water supply, that may be available in the building or premises.

BACKFLOW

The flow, other than the intended direction of flow, of any foreign liquids, gases or substances into the distribution system of a public water supply.

BACKFLOW PREVENTION DEVICE

Any device, method, or type of construction intended to prevent backflow into a potable water system.

CONSUMER

The owner or person in control of any premises supplied by or in any manner connected to a public water system.

CONTAINMENT

Protection of the public water supply by installing a cross-connection control device or air-gap separation on the main service line to a facility.

CONTAMINATION

An impairment of the quality of the water by sewage, process fluids or other wastes to a degree which could create an actual hazard to the public health through poisoning or through spread of disease by exposure.

CROSS-CONNECTION

Any physical link between a potable water supply and any other substance, fluid or source which makes possible contamination of the potable water supply due to the reversal of flow of the water in the piping or distribution system.

HAZARD, DEGREE OF

An evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

1. *Hazard, Health.* Any condition, device or practice in the water supply system and its operation which could create or may create a danger to the health and well-being of the water consumer.

2. *Hazard, Plumbing.* A plumbing type cross-connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air-gap separation or backflow prevention device.

3. *Hazard, Pollution.* An actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

4. *Hazard, System.* An actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system, or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system.

INDUSTRIAL PROCESS SYSTEM

Any system containing a fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollution or plumbing hazard if introduced into a potable water supply.

ISOLATION

Protection of facility service line by installing a cross-connection control device or air- gap separation on an individual fixture, appurtenance or system.

POLLUTION

Such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is reasonably certain to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild animals, birds, fish or other aquatic life.

PUBLIC POTABLE WATER SYSTEM

Any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the Missouri Department of Natural Resources.

SERVICE CONNECTION

The terminal end of a service line from the public water system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.

Section 710.030. Cross-Connections Prohibited — Inspections Permitted.

A. No water service connection shall be installed or maintained to any premises where actual or potential cross-connections to the public potable or consumer's water system may exist unless such actual or potential cross-connections are abated or controlled to the satisfaction of the City and as required by the laws and regulations of the Missouri Department of Natural Resources.

B. No connection shall be installed or maintained whereby an auxiliary water supply may enter a public potable or consumer's water system unless such auxiliary water supply and the method of connection and use of such supply shall have been approved by the City and the Missouri Department of Natural Resources.

C. No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities and fixtures have not been constructed and installed using acceptable plumbing practices considered by the City as necessary for the protection of health and safety.

D. The consumer's premises shall be open at all reasonable times to the City or their authorized representative, for the conduction of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross-connections to the consumer's water system through which contaminants or pollutants could backflow into the public potable water system.

E. On request by the City or his/her authorized representative, the consumer shall furnish information on water use practices within his/her premises.

F. It shall be the responsibility of the water consumer to conduct periodic surveys of water use practices on his/her premises to determine whether there are actual or potential cross-connections to his/her water system through which contaminants or pollutants could backflow into his/her or the public potable water system.

Section 710.040. Protection Required.

A. The type of protection required by this Article shall depend on the degree of hazard which exists, as follows:

1. An approved air-gap separation shall be installed where the public potable water system may be contaminated with substances that could cause a severe health hazard.

2. An approved air-gap separation or an approved reduced pressure principal backflow prevention device shall be installed where the public potable water system may be contaminated with a substance that could cause a system or health hazard.

3. An approved air-gap separation or an approved reduced pressure principal backflow prevention device or an approved double-check valve assembly shall be installed where the public potable water system may be polluted with substances that could cause a pollution hazard not dangerous to health.

B. An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where, in the judgment of the City or the Missouri Department of Natural Resources, actual or potential hazards to the public potable water system exist. The type and degree of protection required shall be commensurate with the degree of hazard.

C. An approved air-gap separation or reduced pressure principle backflow prevention device shall be installed at the service connection or within any premises where, in the judgment of the City or the Missouri Department of Natural Resources, the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises would present an immediate and dangerous hazard to health should a cross-connection occur, even though such cross connection may not exist at the time the backflow prevention device is required to be installed. This includes, but is not limited to, the following situations:

1. Premises having an auxiliary water supply, unless the quality of the auxiliary supply is acceptable to the City and the Missouri Department of Natural Resources.
2. Premises having internal cross-connections that are not correctable or intricate plumbing arrangements which make it impractical to ascertain whether or not cross-connections exist.
3. Premises where entry is restricted so that inspection for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure the cross-connections do not exist.
4. Premises having a repeated history of cross-connections being established or re-established.
5. Premises, which due to the nature of the enterprise therein, are subject to recurring modification or expansion.
6. Premises on which any substance is handled under pressure so as to permit entry into the public water supply, or where a cross-connection could reasonably be expected to occur. This shall include the handling of process waters and cooling waters.
7. Premises where materials of a toxic or hazardous nature are handled such that if back siphonage or backpressure should occur, a serious health hazard may result.

D. The following types of facilities fall into one (1) or more of the categories of premises where an approved air-gap separation or reduced pressure principle backflow prevention device is required by the City and the Missouri Department of Natural Resources to protect the public water supply and must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected by other methods to the satisfaction of the City and the Missouri Department of Natural Resources:

1. Aircraft and missile plants
2. Automotive plants
3. Auxiliary water systems
4. Beverage bottling plants
5. Canneries, packing houses and reduction plants
6. Car washing facilities

7. Chemical manufacturing, processing or treatment plants
8. Film laboratories
9. Fire protection systems
10. Hazardous waste storage and disposal sites
11. Hospitals, mortuaries, clinics
12. Irrigation and sprinkler systems
13. Laundries and dye work
14. Metal manufacturing, cleaning, processing and fabricating plants
15. Oil and gas production, storage or transmission properties
16. Paper and paper products plants
17. Plating plants
18. Power plants
19. Printing and publishing facilities
20. Radioactive material processing plants or nuclear reactors
21. Research and analytical laboratories
22. Rubber plants, natural and synthetic
23. Sewage and storm drainage facilities; pumping stations
24. Water front facilities and industries

Section 710.050. Prevention Devices — Installation.

A. Any backflow prevention device required by this Article shall be of a model or construction approved by the Public Works Department and the Missouri Department of Natural Resources.

1. Air-gap separation to be approved shall be at least twice the diameter of the supply pipe, measured vertically above the top rim of the vessel, but in no case less than one (1) inch.

2. A double-check valve assembly or a reduced pressure principal backflow prevention device shall be approved by the City and shall appear on the current "list of approved backflow prevention devices" established by the Missouri Department of Natural Resources.

B. Existing backflow prevention devices approved by the City at the time of installation and properly maintained shall, except for inspection and maintenance requirements, be excluded from the requirements of this Article so long as the City is assured that they will satisfactorily protect the water system. Whenever the existing device is moved from its present location, or requires more than minimum maintenance, or when the City finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirements of this Article.

C. Backflow prevention devices required by this Article shall be installed at a location and in a manner approved by the City and shall be installed at the expense of the water consumer.

D. Backflow prevention devices installed on the service line to the consumer's water system shall be located on the consumer's side of the water meter, as close to the meter as is reasonably practical, and prior to any other connection.

E. Backflow prevention devices shall be located so as to be readily accessible for maintenance and testing, protected from freezing, and where no part of the device will be submerged or subject to flooding by any fluid.

Section 710.060. Inspection and Maintenance.

A. It shall be the duty of the consumer at any premises on which backflow prevention devices required by this Article are installed to have inspection, tests and overhauls made in accordance with the following schedule or more often where inspections indicate a need.

1. Air-gap separations shall be inspected at the time of installation and at least every twelve (12) months thereafter.

2. Double-check valve assemblies shall be inspected and tested for tightness at the time of installation and at least every twelve (12) months thereafter. They shall be dismantled, inspected internally, cleaned and repaired whenever needed and at least every thirty (30) months.

3. Reduced pressure principal backflow prevention devices shall be inspected and tested for tightness at the time of installation and at least every twelve (12) months thereafter. They shall be dismantled, inspected internally, cleaned and repaired whenever needed and at least every five (5) years.

B. Inspections, tests and overhauls of backflow prevention devices shall be made at the expense of the water consumer and shall be performed by a State of Missouri certified backflow prevention device tester.

C. Whenever backflow prevention devices required by this Article are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay.

D. The water consumer must maintain a complete record of each backflow prevention device from purchase to retirement. Said record shall include a comprehensive listing that includes a record of all tests, inspections and repairs. Records of inspections, tests, repairs and overhauls shall be made available to the City upon request.

E. Backflow prevention devices shall not be bypassed, made inoperative, removed, or otherwise made ineffective without specific authorization by the City.

Section 710.070. Violations.

A. The City shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by this Article is not installed, tested and maintained in a manner acceptable to the City, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises.

B. Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with this Article to the satisfaction of the City.

Chapter 715. Sewer Service

Section 715.010. Use of Public Sewer Required.

A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

B. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sewage or other polluted wastes, except where suitable treatment has been provided in accordance with subsequent provisions of this Article and upon approval of the Missouri Department of Natural Resources.

C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

D. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at his/her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line.

Section 715.020. Monthly Sewer Charges. - Billing.

A. Upon recommendation of the City Administration concerning the costs and expenses associated with sanitary sewage collection, treatment and disposal and the user charge rates necessary to recover those costs and expenses, the City of Carterville, Missouri, has determined that it is necessary to periodically increase the monthly charge assessed residential users, as well as industrial and commercial users, by the City for sanitary sewage collection, treatment and disposal. The rates charged by the City of Carterville, Missouri, for sewage collection treatment and disposal are hereby established as set forth in this table:

SEWER RATES

Monthly Sewer Charges. - Billing" to now read as:

Upon recommendation by the City Council concerning the costs and expenses associated with sanitary sewage collection, treatment and disposal and the user charge rates necessary to recover those costs and expenses, the City of Carterville, Missouri, has determined that it is necessary to periodically increase the monthly charge assessed users by the city for sanitary sewage collection, treatment, and disposal. The rates charged by the City of Carterville, Missouri for sewage collection, treatment, and disposal are hereby established as set forth in this Table.

Residential Customers (In City)	
First 748 gallons	**$20.03 inclusive**
Each gallon thereafter	**$0.0046990 per gallon**

Section 715.030. User Rate Adjustments.

Customer rates will be established at the May billing based on the average use of the previous three (3) months (February, March, and April) and thence carried throughout the remainder of the year. All other customer accounts will be charged related to the water usage each month. Costs will be the same as stated in section 715.020. This applies to all accounts.

Section 715.040. Joint Sewage Disposal System Established.

The Mayor and City Council shall join with a Board appointed by Webb City, the City of Oronogo, and the City of Carterville, Missouri, to form a joint Center Creek Wastewater Treatment Board (referred to as the 201 board), which said Board shall be charged with the operation and maintenance of the Center creek Wastewater Treatment Works.

Section 715.050. (201) User Charge.

A. The user charge shall generate adequate annual revenues to pay contract costs to the Center Creek WWTP for annual operation and maintenance including replacement which the City may incur. That portion of the total charge designated for the 201-user charge and designated for operation and maintenance, including replacement of the treatment works, shall be adjusted annually based on the current contract cost.

B. That portion of the total charge collected which is designated for Center Creek WWTP operation and maintenance, including replacement purposes, shall be deposited in a restricted liability account known as the “sewer/water liability and contingency account”.

C. Fiscal year-end balances in the sewer/water liability and contingency account shall be carried over to the same account in the subsequent fiscal year and shall be used for no other purposes than those designated for these accounts. Monies which have been transferred from other sources to meet temporary shortages in the sewer/water liability and contingency account shall be returned to their respective accounts.

Section 715.060. Rates Reviewed By City.

The City will review the user charge system at least once every calendar year and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance, including replacement, and that the system continues to provide for the proportional distribution of operation and maintenance, including replacement costs, among users and user classes.

Section 715.070. Connection Charges for New Services.

All New connections to the city's sewer system will require a connection or "tap" fee as well as an inspection, both to be paid in advance. Upon payment in full, a certified plumber in good standing with city licensing requirements may make a connection. The city will schedule an inspection upon request and at the earliest possible opportunity. The connection charge for city sewer is two hundred fifty dollars ($250.00) plus a fifty dollars ($50.00) inspection fee.

Any damage caused to sewer mains, streets, sidewalks, or any other city owned property shall be the responsibility of the property owner and must be repaired by their contractor or plumber at the owners' expense. All city owned property must be returned to a condition equal to or better than its original condition within fourteen (14) days.

Chapter 720. Sewer Use Policy

Section 720.010. Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this Article shall be as follows:

ACT OR THE ACT

The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

BOD (DENOTING BIOCHEMICAL OXYGEN DEMAND)

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Centigrade (20°C), expressed in milligrams per liter. The test procedure shall not utilize nitrification inhibitors.

BUILDING DRAIN

That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

BUILDING INSPECTOR

The designated inspection official of the City or his/her authorized representative.

BUILDING SEWER

The extension from the building drain to the public sewer or other place of disposal.

CITY

The City of Carterville, Missouri.

COOLING WATER

The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the pollutant added is heat.

DIRECT DISCHARGES

The discharge of treated or untreated sewage directly to the waters of the State of Missouri.

GARBAGE

Solid wastes from the domestic and commercial preparation, cooking and dispensing of foods and from the handling, storage and sale of produce.

GRAB SAMPLE

A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

INDUSTRIAL WASTES

The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

MUST AND SHALL

Are mandatory; *MAY:* Is permissive.

NATURAL OUTLET

Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

PERSON

Any individual, firm, company, association, society, corporation or group. pH

The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

POLLUTANT

Any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into sanitary sewers.

PPM

Parts per million, the concentration of a material in pounds per million pounds of water.

PRIVATE SEWAGE DISPOSAL SYSTEM

A self-contained system which provides both treatment and disposal of sewage on an individual lot.

PROPERLY SHREDDED GARBAGE

The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.

RECEIVING STREAM

Any natural watercourse into which water, treatment plant effluent, combined sewer overflow or stormwater is discharged.

SANITARY SEWER

A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

SEWAGE

A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwaters as may be present.

SEWAGE TREATMENT PLANT

Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS

All facilities for collecting, pumping, treating and disposing of sewage.

SEWER

A pipe or conduit for carrying sewage.

SLUDGE

Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

STORM DRAIN (SOMETIMES TERMED STORM SEWER)

A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

STORM SEWER

A sewer which carries storm and service waters and drainage, but excludes wastes or sewage and industrial waste, other than non-contact cooling water.

PUBLIC WORKS DIRECTOR

The Public Works Director of the City or his/her authorized deputy, agent or representative.

SUSPENDED SOLIDS

Solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

WATERCOURSE

A channel in which a flow of water occurs, either continuously or intermittently.

Section 720.020. Composition of City Sewer System.

The City sewer system shall comprise all public sewers which are under the control of the City, including both forced main and gravity fed sanitary sewer lines, manholes, pre-treatment facilities, and all private sewers which are connected to public sewers.

Section 720.030. Sanitary Sewer System.

The sanitary sewer system of the City shall consist of such types of materials as may be authorized in the Plumbing Code adopted in Chapter 500 of this Code or as authorized by this Chapter and designed to carry off liquid house wastes. The sanitary sewer system is a part of the City sewer system.

Section 720.040. Duties of City Engineer.

A. The City Engineer shall be inspector of sewers and shall have superintending control of all sewers comprising the City sewer system. The City Clerk shall issue all permits for connections with the City sewer system and keep an accurate record thereof. The Public works director may serve as the city engineer or may contract for services as needed.

B. The City Engineer shall from time to time prepare the necessary rules and regulations for the proper control of the sewers, sewer connections and appurtenances incident thereto and report them to

the City Council for its approval; and such rules and regulations, when so approved and spread upon the minutes of the City Council, shall be governing in all matters to which they relate.

Section 720.050. Work To Conform To Applicable Plans, Specifications, Etc.

Unless otherwise provided in this Code or other ordinance of the City, all work done under the provisions of this Article shall be carried on under the direction of the City Engineer and shall be done in accordance with any applicable plans, specifications, rules and regulations on file in the office of the City Clerk and in accordance with applicable contracts and ordinances governing such work.

Section 720.060. Laying Sewers Through Private Property Restricted.

No sewer shall be run diagonally through private property when it is practicable, without injury to the sewer, to construct it parallel with one (1) of the exterior lines of such property, nor shall any sewer be constructed through private property when it is as practicable to construct it along or through a street or public highway.

Section 720.070. Private Sewage Disposal Systems.

A. Where a public sanitary or combined sewer is not available under the provisions of this chapter, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.

B. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the building inspector. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the building inspector. A permit and inspection fee of thirty-five dollars ($35.00) shall be paid to the City at the time the application is filed.

C. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Building Inspector. He/she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Building Inspector when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the Building Official or on the earliest City workweek day thereafter.

D. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Missouri Department of Natural Resources (MDNR) and any requirements of the Plumbing Code adopted by the City. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than fifteen thousand (15,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

E. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 715.010(D), a direct connection shall be made to the public sewer in compliance with this section and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

F. The owner shall operate and maintain the private sewage disposal systems in a sanitary manner at all times, at no expense to the City.

G. No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by any County Health Officer or City Code Enforcement Officer.

H. When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

Section 720.080. Building Sewers and Connections.

A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.

B. The owner or his/her agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Building Inspector. A permit and inspection fee of thirty-five dollars ($35.00) for a residential or commercial building sewer permit shall be paid to the City at the time the application is filed.

C. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

D. A separate and independent building sewer shall be provided for every building, except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, in which case the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Building Inspector, to meet all requirements of this Article.

F. The site, slope and alignment of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the City. The building sewer shall be vitrified clay, ductile or cast iron, or polyvinyl chloride (PVC) having a wall thickness no less than that of SDR 2S class pipe.

G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

H. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, sump pumps or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sewer.

I. The connection of the building sewer into public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Building Inspector before installation.

J. The applicant for the building sewer permit shall notify the Building Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Building Inspector or his/her representative.

K. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

Section 720.090. Use of The Public Sewers.

A. No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any public sewer.

B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Building Inspector and MDNR.

Industrial cooling water or unpolluted process waters may be discharged, on approval of the Public Works Director and MDNR, to a storm sewer or natural outlet.

C. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the sewage works or to the operation of the sewage works. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, and any other substances which the City, the MDNR or the Environmental Protection Agency (EPA) has notified the user is a fire hazard or a hazard to the system.

2. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, to create a public nuisance, to create any hazard in the receiving waters of the sewage treatment plant, or to exceed limitations(s) set forth in a pretreatment standard including, but not limited to, cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act.

3. Any waters or wastes having a pH lower than 5.5, or exceeding 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Any waters or wastes having a five (5) day BOD greater than three hundred (300) parts per million by weight, or containing more than three hundred fifty (350) parts per million by weight of suspended solids, or having an average daily flow greater than two percent (2%) of the average sewage flow of the City shall be subject to the review of the Public Works Director. Where necessary in the opinion of the Public Works Director, the owner shall provide, at his/her expense, such preliminary treatment as may

be necessary to reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or to reduce the suspended solids to three hundred fifty (350) parts per million by weight, or to control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Public Works Director and no construction of such facilities shall be commenced until said approvals are obtained in writing.

D. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Public Works Director that such wastes can harm either the sewers, sewage treatment plant or equipment, cause the City to violate its NPDES permit, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his/her opinion as to the acceptability of these wastes, the Public Works Director will give consideration to such factors as the quantities of such wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150°F) (sixty-five degrees Centigrade (65°C)) at the point before entering the public sewer, or any sewage having a temperature which will result in a waste with a temperature at the introduction into the sewage works which exceeds one hundred four degrees Fahrenheit (104°F) (forty degrees Centigrade (40°C), or which would cause interference at the sewage treatment plant.

2. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two and one hundred fifty degrees Fahrenheit (32°—150°F) (zero and sixty-five degrees Centigrade (0—65°C)).

3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (¾) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Public Works Director.

4. Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions whether neutralized or not.

5. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Public Works Director for such materials.

6. Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Public Works Director as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies having jurisdiction for such discharge to the receiving waters.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Public Works Director in compliance with applicable State or Federal regulations.

8. Materials which exert or cause:

    a. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

d. Unusual volume of flow or concentration of wastes constituting *"slugs"* as defined herein.

9. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment plant employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters, such as NPDES permit requirements.

E. If any waters or wastes are discharged or are proposed to be discharged into the City's sewers which contain any quantity of substance having the characteristics described in Section 720.090(C)(5) of this Article, and/or are in violation of the standards of pretreatment provided in Chapter 1, EPA Rules and Regulations, Subchapter D, Water Programs Part 403—Pretreatment Standards, Federal Register Volume 46, No. 18, Wednesday, January 26, 1981, and any amendments thereto, and which, in the judgment of the Public Works Director may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise may create hazard to life or constitute a public nuisance, the Public Works Director may:

1. Reject the wastes; or

2. Require, at the owner's expense, pretreatment facilities to reduce objectionable characteristics or constituents to within the maximum limits provided for in Subsection (D) of this Section and/or Federal or State pretreatment standards; and/or

3. Require control over the quantities and rates of discharge by developing discharge limitations; and/or

4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Subsection (K) of this Section.

F. If the Public Works Director permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the Public Works Director and subject to the requirements of all applicable Codes, ordinances and laws.

G. Grease, oil and sand interceptors shall be provided when, in the opinion of the Public Works Director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Public Works Director and shall be located so as to be readily and easily accessible for cleaning and inspection.

H. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his/her expense.

I. When required by the Public Works Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Public Works Director. The manhole shall be installed by the owner at his/her expense and shall be maintained by him/her so as to be safe and accessible at all times.

J. All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this Article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation, and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pHs are determined from periodic grab samples.

K. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

Section 720.100. Pretreatment.

Users shall provide necessary wastewater treatment as required to comply with all Federal categorical pretreatment standards within the time limitations as specified by the Federal pretreatment regulations. Any State requirements and limitations on discharges shall apply to any case where they are more stringent than Federal requirements and limitations. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent meeting Federal categorical pretreatment standard. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the City prior to the user's initiation of the changes.

Section 720.110. Penalties.

A. Any person found to be violating any provision of this chapter shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

B. Any person who shall continue any violation beyond the time limit provided for shall be guilty of a misdemeanor and, on conviction thereof, shall be fined in an amount not exceeding five hundred dollars ($500.00) for each violation. Each day in which any such violations shall continue shall be deemed a separate offense.

C. Any person violating any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation. In the event that civil action is taken by the city to recover damages, the city reserves the right to recoup legal fees if judgement is in the city’s favor.

Section 720.120. Who Bears Cost of Construction and Maintenance.

Private sewers shall be constructed at the expense of the owners of the properties for which the sewers are required, and they shall be liable for the cost of repairing, maintenance and cleaning.

Section 720.130. Regulations For Construction.

Private sewers shall be constructed under such restrictions and regulations as the City Council may prescribe and in accordance with the rules, regulations and specifications on file in the office of the City Clerk.

Section 720.140. Permit Required — Fees — Terms Upon Which Permit Issued.

A. No person shall construct a private sewer or connect a private sewer to the City sewer system until he/she shall have signed and executed a private sewer permit contract which shall be substantially in the following form:

The City of Carterville, Party of the First Part, hereby issues to

_____, Parties/Party of the Second Part, a permit to connect the following described premises:

In Carterville, Missouri, public sewer, at a point _____feet_____ of manhole number_____ upon the following conditions, to which second Parties/Party specifically agrees:

1. Second Parties/Party shall pay First Party the sum of $35.00, the receipt of which is hereby acknowledged.
2. In the event the premises herein, or any part thereof, are included in a sewer district in the future, said premises shall be liable for its share of the cost and Second Parties/Party, their/his/her heirs, successors and assigns shall have no claim for a refund of the amount herewith paid or any part thereof.
3. Second Parties/Party agrees that said sewer shall be constructed in accordance with the plans and specifications on file in the City Hall and shall not be used until inspected and approved by the City Engineer.

4. Second Parties/Party agrees that if the City shall in the future deem it necessary to construct a sewer in any street, alley or easement wherein this said sewer shall be located, the City shall have the right to use, remove and/or replace the same, in whole or in part, without being liable to Second Parties/Party, their/his/her heirs, successors or assigns, for any damages other than for actual loss of use of sewer facilities, but that in such event said City shall thereafter be responsible for maintenance of the same.

State of Missouri))
SS
County of Jasper)

Subscribed and sworn to before this _____ day of_____ , 20_____.

.

Notary Public

My Commission expires

.

CITY OF CARTERVILLE

BY:

B. Private sewer permits shall be issued by the City upon payment to the City Collector of the amount herein specified.